

TO: Board of Directors

FROM: B. Newell, Chief Administrative Officer

DATE: August 2, 2018

RE: Zoning Bylaw Amendment – Electoral Area “E”

Administrative Recommendation:

THAT Bylaw No. 2459.31, 2018, Electoral Area “E” Zoning Amendment Bylaw be denied.

Purpose: To allow an accessory dwelling with a floor area of 140 m² on one lot and to remove the ability to have an accessory dwelling on another lot.

Owner: 1518005 Alberta Ltd. Applicant: Donna Butler (Ecora Engineering) Folio: E-02130.020

Civic: 891 & 945 Old Main Road Legal: Lots A & Lot B, DL 209, SDYD, Plan KAP52428

Zoning: Agriculture One (AG1) Proposed Zoning: Agriculture One Site Specific (AG1s)

Proposed Development:

This application is for two site specific amendments to the Electoral Area “E” Zoning Bylaw No. 2459, 2008, in order to increase the floor area of an accessory dwelling from 90.0 m² to 140 m² at 945 Old Main Road and to remove the ability to have an accessory dwelling, mobile home, and secondary suite from the property at 891 Old Main Road.

In support of the proposal the applicant states: “each parcel is permitted a principal residence and 1 accessory dwelling for farm help up to 90 m² – for a total of 4 dwellings. In this amendment application, a new Site Specific AG1 zone is requested that will concentrate the floor area of the accessory dwellings for farm labour on 945 Old Main Road”.

Both properties have the same owner and are part of Curvata Vineyards. The proposal on 945 Old Main Road is to “replace the farm help dwelling with a new unit, located above a garage and workshop to be used by the farm manager. Subsequently, the driveway will be rebuilt and the main house will be removed and replaced with new construction. Both new structures will be located in the same area as the existing structures. In Phase 2 a new house and winery are planned for 891 Old Main Road.”

Site Context:

891 Old Main Rd is approximately 3.5 ha in size and 945 Old Main Road is approximately 4.1 ha in size. The subject properties are situated east and north of Old Main Road, approximately 2 kilometres south of Naramata’s village centre.

The surrounding pattern of development is characterized by similarly sized agricultural properties and rural residential properties along Okanagan Lake.

Background:

The properties were created by a plan of subdivision deposited in the Kamloops Land Title Office in 1994, and available Regional District records do not list any Building Inspection records despite 945 Old Main Road comprising a single detached dwelling, a farm help dwelling, and several accessory buildings (891 Old Main Road has no residential buildings).

Under the Electoral Area “E” Official Community Plan (OCP) Bylaw No. 2458, 2008, the subject properties are designated Agriculture (AG), an objective of which is “to preserve agricultural land with continuing value for agriculture for current and future production, and to protect this land from uses which are inconsistent with agricultural use or are incompatible with existing agricultural uses in the area.”

The OCP also contains a supporting policy that speaks to the Regional District Board considering “second dwelling applications within the ALR in accordance with second dwelling policies established in the implementing Zoning bylaw, and reflective of the views of the farming community.”

Both properties are designated as being within a Watercourse Development Permit (WDP) Area, while 945 Old Main Road is also designated as being within an Important Ecosystem Area (IEA).

Under the Electoral Area “E” Zoning Bylaw No. 2459, 2008, the properties are zoned Agriculture One (AG1), which limits density on parcels less than 8.0 ha in area to one (1) secondary suite, accessory dwelling or mobile home is permitted with a maximum floor area of 90 m².

The subject properties are located within the Agricultural Land Reserve (ALR) as are many of the neighbouring properties.

Prior to the adoption of agricultural zone regulations (Amendment Bylaw No. 2827, 2018) on July 20, 2017, the maximum floor area for an accessory dwelling was 140 m² for the first unit and 70 m² for additional units. The basis for the change was to align the floor area allowance for accessory dwellings with other secondary dwelling unit types (such as secondary suites and carriage houses) which have been set at 90 m².

Public Process:

At its July 9, 2018 meeting, the Electoral Area “E” Advisory Planning Commission (APC) resolved to recommend to the Regional District Board that this development proposal be approved subject to a covenant being registered on the title of 891 Old Main Road, restricting the use of an accessory dwelling, mobile home, and secondary suite. The applicant has indicated that they are willing to have a restrictive covenant registered on the title of 891 Old Main Road.

A Public Information Meeting was held on July 9, 2018, and was attended by nine (9) members of the public.

Referral comments on this proposal have been received from FortisBC and these are included as a separate item on the Board Agenda.

Approval from the Ministry of Transportation and Infrastructure (MoTI) of the amendment bylaw prior to adoption will not be required as the subject property is situated beyond 800 metres of a controlled area (i.e. Highway 97).

Analysis:

In considering this proposal, Administration notes that the provision of accessory dwelling units in the ALR is related to the justifiable need to provide housing for on-farm help in certain circumstances but that the un-necessary provision of housing in the ALR can also have a negative effect on agricultural land and the agricultural use of land.

In order to balance the needs of the farming community against un-necessary residential development in the Reserve, the Regional District has taken the approach of limiting the floor area and number of accessory dwellings based on parcel size.

A 90.0 m² floor area limitation is intended to ensure that an accessory dwelling remains “accessory” (i.e. does not become a principle dwelling) and is complimentary to the principle agricultural use of a property and does not become a stand-alone use detached from the operation of the farm. 90.0 m² is also consistent with the floor area limitation imposed on secondary suites (which are another form of accessory dwelling).

While Administration recognizes that it has previously supported proposals in Electoral Area “E” that combined the floor area of multiple accessory dwellings into a single dwelling with a larger floor area (i.e. 210 m² or 280 m²), this was generally where these dwellings could be constructed on a single legal parcel and prior to the update of the Agriculture Zones completed in 2017.

In this instance, Administration notes that were the two subject properties to be consolidated, the applicant would not have a sufficient land area to qualify for an accessory dwelling in excess of 90 m² (i.e. being less than 8.0 ha in area).

With regard to the offer to remove (“sterilize”) the ability of the property at 891 Old Main Road to have an accessory dwelling, secondary suite or mobile home in order to increase the floor area of the accessory dwelling at 945 Old Main Road, Administration is concerned that this is not viable over the long-term.

Specifically, future property owners of 891 Old Main Road may acquire the property with a legitimate expectation of being able to develop an accessory dwelling, secondary suite or mobile home and the inability to do so may create pressure on the Regional District Board to restore these development opportunities.

Administration believes that the stronger argument for a larger accessory dwelling would derive from the consolidation of the two properties to create a single parcel 7.6 ha in area – which would only be 0.4 ha of qualifying for an accessory dwelling floor area of 180 m². The consolidation of parcels and replacement of a principal dwelling unit with an over-sized accessory dwelling *could* warrant support for an amendment to the zoning bylaw.

Alternately, the applicant could simply develop a single detached dwelling on the parcel at 891 Old Main Road — as shown on their site plan — with their desired floor area and avoid the need for this rezoning.

Conversely, Administration recognizes that the accessory dwelling is proposed in the “farm residential footprint” near the existing dwelling and other residential uses (i.e. driveway, parking, septic field) which has already been disturbed and is not used for cultivation purposes. The accessory dwelling is also proposed above a garage and farm workshop which reduces the development footprint on the property.

Nevertheless, and for these reasons outlines earlier above, Administration does not support the requested rezoning.

Alternatives:

- .1 THAT Bylaw No. 2459.31, 2018, Electoral Area "E" Zoning Amendment Bylaw be read a first and second time and proceed to public hearing;

AND THAT the holding of a public hearing be scheduled for the Regional District Board meeting of September 6, 2018;

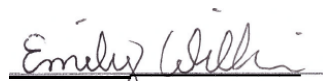
AND THAT staff give notice of the public hearing in accordance with the requirements of the *Local Government Act*.
- .2 THAT Bylaw No. 2459.31, 2018, Electoral Area "E" Zoning Amendment Bylaw be read a first and second time and proceed to public hearing;

AND THAT the holding of the public hearing be delegated to Director Kozakevich or delegate;

AND THAT staff schedule the date, time, and place of the public hearing in consultation with Director Kozakevich;

AND THAT staff give notice of the public hearing in accordance with the requirements of the *Local Government Act*.

Respectfully submitted



E. Williamson, Planner

Endorsed by:



C. Garrish, Planning Supervisor

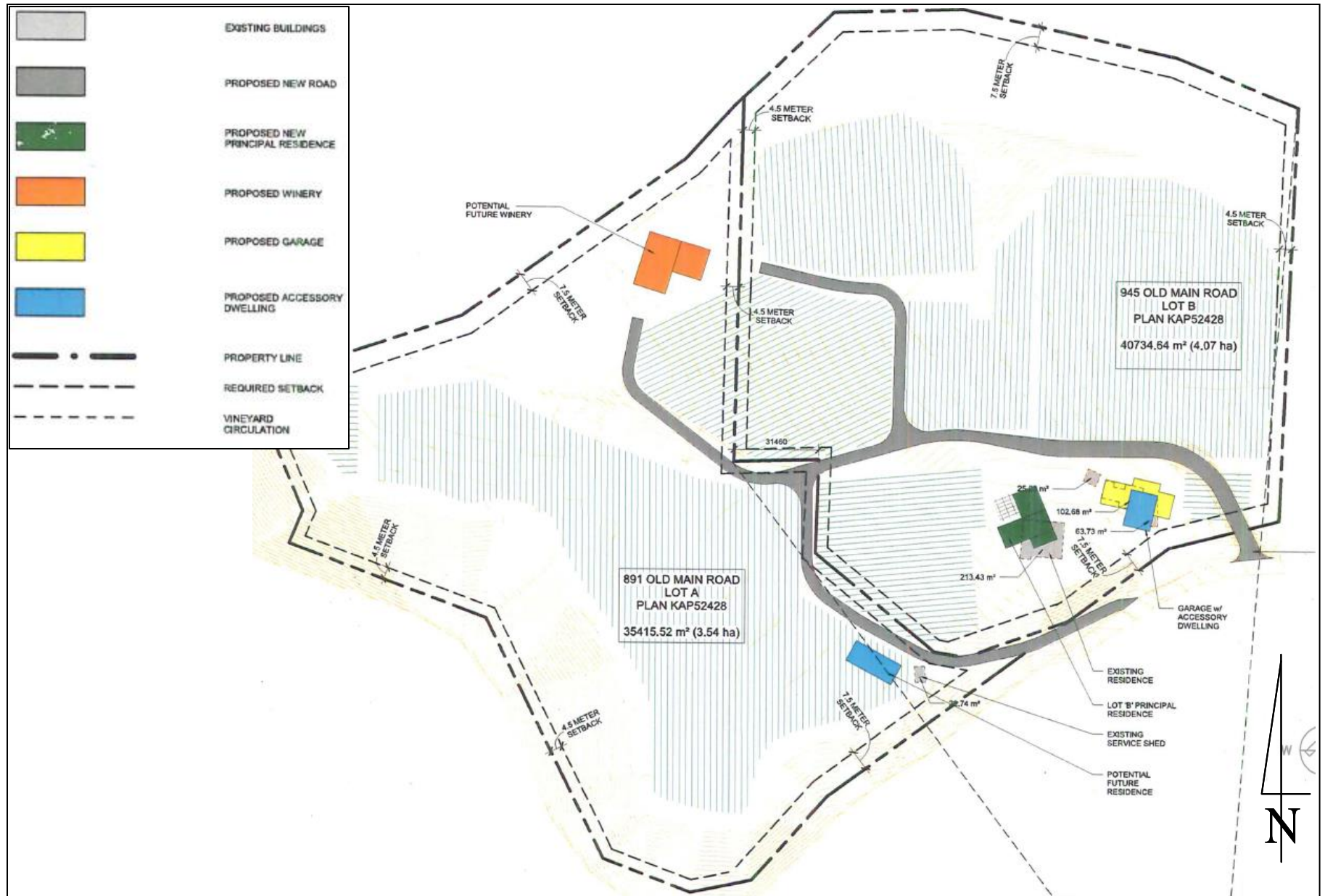
Attachments: No. 1 – Applicant's Site Plan

No. 2 – Applicant's Main Floor Plan

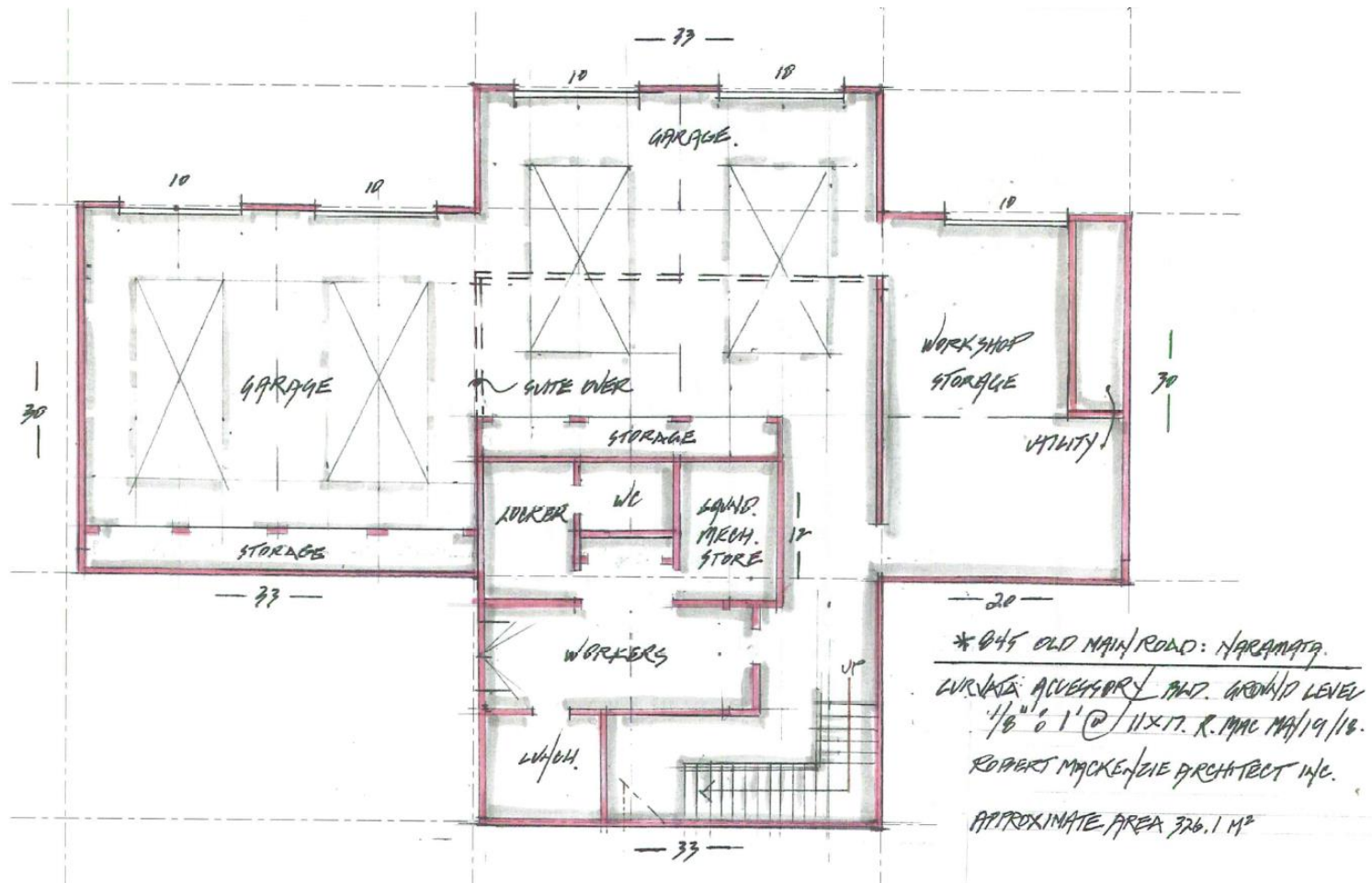
No. 3 – Applicant's Second Floor Plan

No. 4 – Aerial Photo (2007)

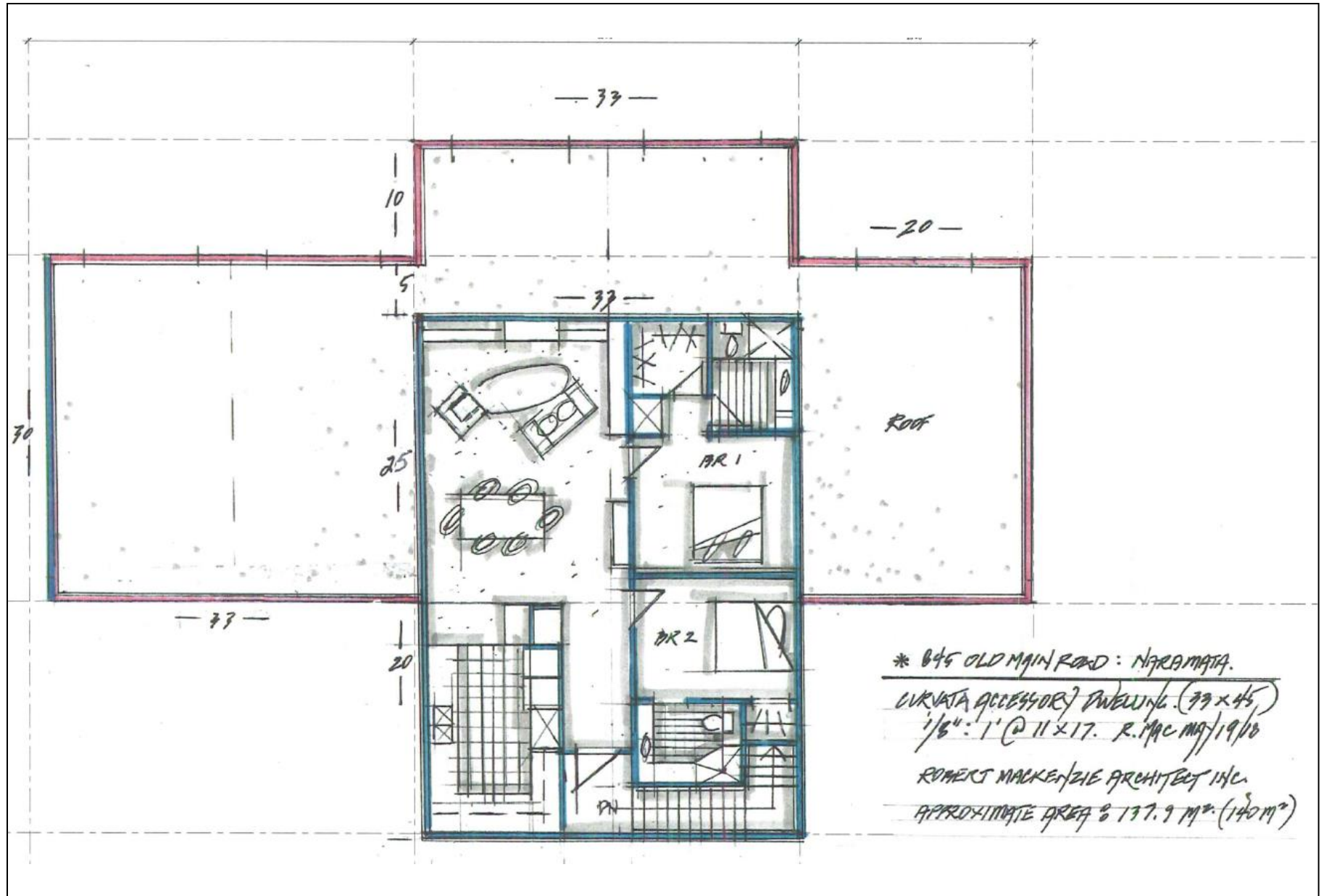
Attachment No. 1 – Applicant's Site Plan



Attachment No. 2 – Accessory Dwelling Main Floor Plan



Attachment No. 3 – Accessory Dwelling Second Floor Plan



Attachment No. 4 – Aerial Photo (2007)

