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**MEETING TYPE:** Regular Council Meeting  
**MEETING DATE:** June 6, 2023  
**AUTHOR:** Inonge Aliaga, Senior Planner  
**DEPARTMENT:** Planning and Development  
**ITEM TITLE:** ALR Non-adhering Residential Use - ALR2021-001 (5165 Pada Road)  
**DESCRIPTION:** Application to allow two existing tiny homes as residences for farmers leasing the land

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## QUESTION

Does Council support an Agricultural Land Reserve (ALR) application to allow a Non-adhering Residential Use of two existing tiny homes, as residences for farmers leasing the agricultural land?

## OPTIONS

- A. THAT Non-adhering Residential Use application ALR2021-001 for the property located at 5165 Pada Road. (Roll 2918091; PID 028-052-978) to allow two existing tiny homes as residences for farmers leasing the land be supported;  
AND THAT ALR2021-001 be forwarded to the Agricultural Land Commission.
- B. THAT Non-adhering Residential Use ALR2021-001 for property located at 5165 Pada Road. (Roll 2918091; PID 028-052-978) to allow two existing tiny homes as residences for farmers leasing the land not be supported;  
AND THAT ALR2021-001 be forwarded to the Agricultural Land Commission.
- C. THAT Non-adhering Residential Use ALR2021-001 for property located at 5165 Pada Road. (Roll 2918091; PID 028-052-978) to allow two existing tiny homes as residences for farmers leasing the land not be supported;  
AND THAT ALR2021-001 not be forwarded to the Agricultural Land Commission.
- D. THAT Non-adhering Residential Use ALR2021-001 for property located at 5165 Pada Road. (Roll 2918091; PID 028-052-978) to allow two existing tiny homes as residences for farmers leasing the land be deferred pending receipt of additional information as identified by Council.

## EXECUTIVE SUMMARY

Pradha Farm, located at 5165 Pada Road, is a collective based farming operation, providing affordable access to both existing pasture and previously non-farmed lands. Pradha Farms leases land to start-up farming operations. Two of the operations, Archaic Revival Farm & Hygge Farms use a combined total of 1.62 hectares (4 acres) for organic market gardening and poultry production. The operators require housing accommodations on the land to continue farm operations. Archaic Revival Farm (two people) has been living at the site in one tiny home year-round and Hygge Farms (two people) have been living on the subject property in a tiny home on a seasonal basis. In addition to the tiny homes, there is a single family dwelling on the parcel.

The Agricultural Land Commission (ALC) regulation permits a second smaller home on the property (Archaic Revival Farm Tiny Home) but requires an application for the additional seasonal accommodation. The District does not generally permit any farm accommodation in a tiny home (built to an recreational vehicle (RV) construction standard).

If the ALC permits the residences as requested, the applicant will be required to return to the District to authorize the land use (Zoning Bylaw amendment or Temporary Use Permit).

## BACKGROUND/HISTORY

**TABLE 1: PROPERTY INFORMATION**

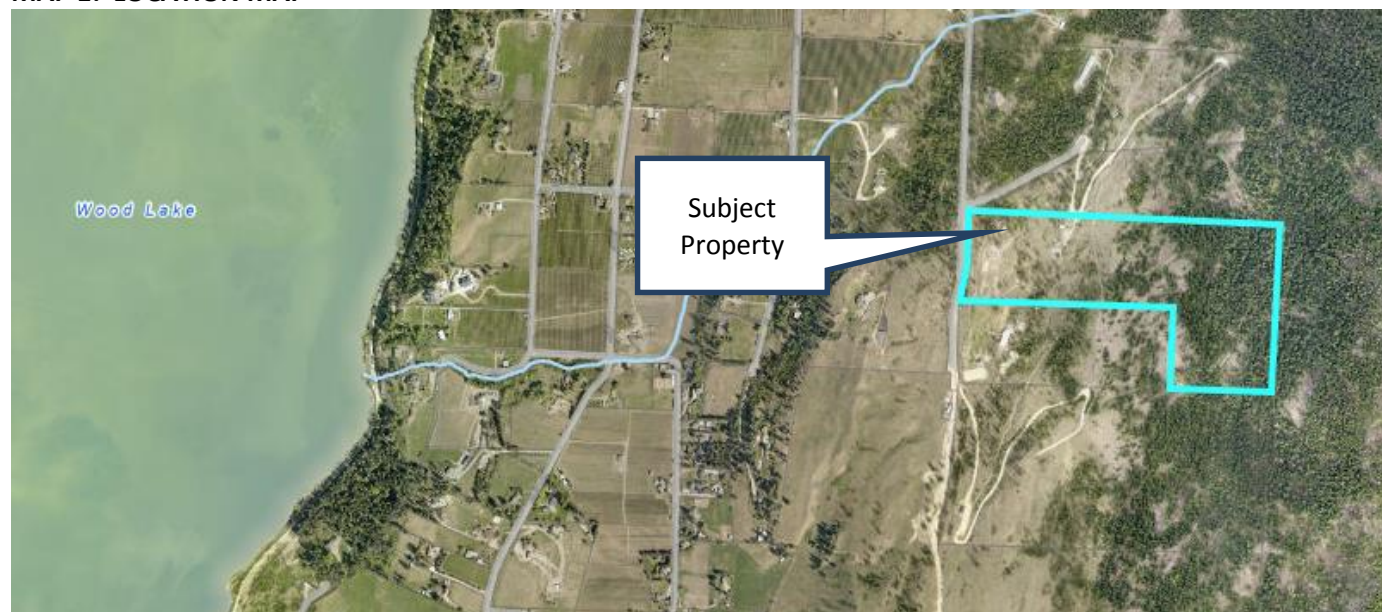
PROPERTY INFORMATION		
Civic Address:	5165 Pada Road	
Roll Number:	2918091	
Legal Description:	Lot B Sec 25Twn20 ODYD Plan KAP89894, PID: 028-052-978	
Applicant:	Genevieve Daniel	
OCP Designation:	Agriculture	
Existing Zoning:	A1 – Agriculture	
Land Use Contract:	No	
ALR:	Yes	
Parcel Size:	21.76 ha (53.77 ac)	
DP Area(s):	Wildland Fire, Natural Environment, and Green House Gas & Resource Conservation	
Water Supply:	Well Water (Oyama Lake water district – municipal water for agricultural use)	
Sewer:	Onsite	
<b>Adjacent Properties:</b>	<b>Zoning:</b>	<b>Use:</b>
<i>North:</i>	A1– Agriculture	Farm – cattle range/Horse trails
<i>East:</i>	RLP – Rural Large Parcel 1	Forested – no buildings or road access
<i>South:</i>	A1– Agriculture	Farm – south cattle range / horse trails
<i>West:</i>	A1– Agriculture	Farm – horses, poultry, vegetables

## SITE CONTEXT

The subject property is 21.76 hectares (53.77 ac) and zoned A1 – Agricultural. The western half (downhill) of the property is located in the Agricultural Land Reserve (ALR), and the eastern half (uphill) is mainly forested. The property has farm status from BC assessment.

There is a single family dwelling (~278.7m<sup>2</sup>/3000 ft<sup>2</sup>) on the subject property. Road access to the primary residence is from Pada Road via a private driveway across the undeveloped neighbouring property. There is municipal water along Talbot Road. However, the property is serviced by well water.

**MAP 1: LOCATION MAP**





MAP 2: ORTHOPHOTO SHOWING LOCATION OF TINY HOME SITE



MAP 3: AIR PHOTO OF TINY HOME SITE, 2021



### **Farming Operation**

Pradha Farm, located at 5165 Pada Road, is a collective based farming operation, providing affordable farmer-access to previously non-farmed lands. Pradha Farms leases land to start-up farming operations. Key to their success is providing land for housing, enabling farmers to live on site, in non-permanent secondary housing, and grow crops and manage livestock.

Talbot Road provides access to secondary dwellings. Two tiny homes, as well as other RV trailer residences, greenhouses and farm-related storage buildings are located on the flattest portion of the property near the Talbot Road access.

At the time of application, the farming activity on the property included:

- Tyndall Farms – Cattle Range (lease, 8.09ha (20 acres)),
- Okanagan Stables – Horse Training and Sales (lease, 8.09ha (20 acres)),
- Archaic Revival Farm & Hygge Farms – organic farming market gardening and poultry (1.62 hectares (4 acres) and 2 tiny homes), and
- Pradha Farms – apiary (under development).

This application is for a non-adhering residential use for two housing units:

- One temporary all-season farm use for Archaic Revival Farm: mobile park-styled trailer (18.58m<sup>2</sup> / 200 ft<sup>2</sup>) located on leveled compact gravel pad of 800-1000 ft<sup>2</sup> (two occupants), and
- One temporary seasonal farm housing unit for Hygge Farm: mobile park styled trailer (18.58m<sup>2</sup> / 200 ft<sup>2</sup>) located on leveled compact gravel pad of 800-1000 ft<sup>2</sup> (two occupants).

The applicant states that the tiny homes support farming practices and affordable housing. They are located within the Natural Environment and Wildland Fire Development Permit areas.

### **Agricultural Advisory Committee**

On December 12, 2022 the District of Lake Country's Agricultural Advisory Committee (AAC) reviewed the Non-Farm Use application. The Committee's recommendation is included below.



**SITE PHOTO 1: YEAR-ROUND RESIDENCE****SITE PHOTO 2: SEASONAL RESIDENCE****TABLE 2: FILE CHRONOLOGY**

Date	Event
2020-05-12	Original Bylaw complaint included two tiny homes, one set up in Spring 2019 and the other in spring 2020
2021-01-11	District receives ALR Application for two tiny homes, one year-round and one seasonal
2021-12-31	ALC regulation changes to permit a second residence of 90m <sup>2</sup> or less on ALR land

2022 summer	ALC enforcement staff confirm that there are two tiny homes on site and additional RV trailers being used as residences
2023-02-13	Committee consideration – Agricultural Advisory Committee
2023-05-08	Internal and External Referrals completed
n/a	Previous Council consideration

## DISCUSSION/ANALYSIS

Agriculture is an essential part of the District of Lake Country. As demand for land in the District increases and costs rise, opportunities to bring land into production and to assist younger farmers to enter into farming, should be explored.

The ALC and the District of Lake Country have different permissions and requirements when it comes to housing on agricultural land. The December 2021 change to the ALR regulation permits a second smaller home on ALR land. This removes the requirement to gain ALC approval for the first tiny home. However, applying to the ALC to authorize the remaining tiny home as a non-adhering residential use still applies.

The DLC Zoning Bylaw requires mobile homes to be built to a standard that can safely be used for permanent year-round use *with permanent utilities*. A mobile home must be built to CSA Z241 (Park Model Trailers (larger)) or CSA Z240 (Park Model Trailers (smaller)) or similar standards.

The tiny homes on the site at Pada Road are not built to either standard. They are similar to a RV built to the CSA Z240 RV standard, which is the National Standard building code for a Recreational Vehicle. This standard specifies dimensional and safety requirements for recreational vehicles.

Below is a tabel showing the three homes on the property and the difference between the requirements for the District and the ALC.

**TABLE 3: DISTRICT AND ALC REQUIREMENTS FOR FARM HOUSING**

	Residences	District of Lake Country Requirements	ALC requirements
1	Existing primary residence (3,000 ft <sup>2</sup> )	Exisitng & Conforming – no approvals required	Exisitng & Conforming– no approvals required
2	Tiny Home – temporary year round (Archaic Revival Farm: poultry and seasonal vegetables)	Use is permitted if permanent; Density is permitted; Building structure <b>is not permitted</b> : Possible development variance permit or temporary use permit*	Permitted second smaller residence of 90m <sup>2</sup> or less.
3	Tiny Home – temporary seasonal 270 days a year (Hygge Farm: micro-greens, chili peppers, sprouts & mushrooms)	Use permitted as seasonal accommodation for farm help. Building structure <b>is not permitted</b> : Possible development variance permit or temporary use permit	Non-adhering use application to ALC Commission cannot approve an additional residence unless it is necessary for farm operations
	Other Requirements	Access Permit to legalize the Talbot Road entrance and Building Permits would be requirements.	ALC has requirements to ensure temporary farm worker housing does not permanently change the land

\* Could also be required to replace a Tiny Home with a Mobile Home Trailer with permanent sewer and water

## APPLICABLE LEGISLATION AND POLICIES

### Farm Practices Protection (Right to Farm) Act (BC)

"farmer" means the owner or operator of a farm business.

"normal farm practice" means a practice that is conducted by a farm business in a manner consistent with

- (a) proper and accepted customs and standards as established and followed by similar farm businesses under similar circumstances, and
- (b) any standards prescribed by the Lieutenant Governor in Council,

and includes a practice that makes use of innovative technology in a manner consistent with proper advanced farm management practices and with any standards prescribed under paragraph (b).

2(1) If each of the requirements of subsection (2) is fulfilled in relation to a farm operation conducted as part of a farm business,

- (a) the farmer is not liable in nuisance to any person for any odour, noise, dust or other disturbance resulting from the farm operation, and
- (b) the farmer must not be prevented by injunction or other order of a court from conducting that farm operation.

(2) The requirements referred to in subsection (1) are that the farm operation must

- (a) be conducted in accordance with normal farm practices,
- (b) be conducted on, in or over land
  - (i) that is in the agricultural land reserve,
  - (ii) on which, under the [Local Government Act](#), farm use is allowed,
  - (iii) that is used for a type of aquaculture prescribed for the purpose of paragraph (h) of the definition of "farm operation", or
  - (iv) that is Crown land designated as a farming area under subsection (2.1), and
- (c) not be conducted in contravention of the [Public Health Act](#), [Integrated Pest Management Act](#), [Environmental Management Act](#), the regulations under those Acts or any land use regulation.

3) The following apply if each of the requirements of subsection (2), except subsection (2) (b) (ii), is fulfilled in relation to a farm operation conducted as part of a farm business:

(a) despite section 260 (3) [*bylaw contraventions*] of the [Community Charter](#), a farmer does not contravene a bylaw made under the following provisions of the [Community Charter](#) only by conducting that farm operation

- section 8 (3) (d) [*firecrackers, fireworks and explosives*];
- section 8 (3) (e) [*weapons other than firearms*];
- section 8 (3) (h) [*nuisances, disturbances and other situations*];
- section 8 (3) (k) [*animals*];
- section 8 (5) [*firearms*];

(b) despite section 416 [*bylaw contraventions — offences and prosecutions*] of the [Local Government Act](#), a farmer does not contravene a bylaw made under the following provisions of the [Local Government Act](#) only by conducting that farm operation:

- section 318 [*general animal control powers*];
- section 324 [*noise control*];
- section 325 [*nuisances and disturbances*];
- section 326 [*fireworks restrictions*];

(c) despite section 274 [*actions by municipality*] of the [Community Charter](#) and section 420 [*enforcement by civil proceedings*] of the [Local Government Act](#), a farmer must not be prevented by injunction or other order of a court from conducting that farm operation.



## **Agricultural Land Reserve Use Regulation**

- Section 25** (1) On receiving a use or subdivision application,
- (a) the commission, if required by the regulations, must reject the application, or
  - (b) if paragraph (a) of this subsection does not apply, the commission may, subject to subsection (1.1),
    - (i) refuse permission for the use or subdivision applied for,
    - (ii) grant permission, with or without limits or conditions, for the use or subdivision applied for,
- Or,
- (iii) grant permission for an alternative use or subdivision, with or without limits or conditions, as applicable.
- (1.1) In making a determination under subsection (1) (b) with respect to an application for a non-adhering residential use, the commission
- (a) must consider the prescribed criteria, if any, and
  - (b) must not grant permission for an additional residence unless the additional residence is necessary for a farm use.

## **Official Community Plan Bylaw 1065-2018**

### Part 14 Agriculture

#### Section 14.1 Existing Conditions

The District of Lake Country has strong agricultural roots. Agriculture and agriculturists have played a defining role in creating the community that exists today and shall continue to be a large part of the community in the future. Preserving and enhancing the agricultural industry in Lake Country is of paramount importance as it provides both employment opportunities and contributes significantly to the community character and lifestyle of many residents.

Approximately 43% of all land in Lake Country is within the Agricultural Land Reserve....

Objective 14.1.2 Protect the integrity of the Agricultural Land reserve and the viability of local agriculture.

14.1.3 The Policies of Council are as follows:

- a. Respect the mandate and policies of the Agricultural Land Commission;
- f. Support additional dwellings on farmland only when the farm warrants full-time help; and
- g. develop guidelines for determining when full-time on-farm help residences are necessary.

#### Section 23.6 Temporary Use Permits

Temporary Use Permits may be considered to allow specific land uses on properties throughout the District for a limited period of time. A Temporary Use Permit allows for a land use not permitted by the applicable Zoning Bylaw to occur on a specified property.

The policies of Council are as follows:

- a. The District will consider the issuance of a Temporary Use Permit provided the proposed use:
  - i. is temporary or seasonal;
  - ii. is not noxious or undesirable because of smoke, noise, vibration, dirt, glare, odour, radiation, electrical interference or an offensive trade within the meaning of the Health Act, as amended from time to time;
  - iii. have no negative impact on adjacent lands;
  - iv. create no significant increase in the level or demand for services;
  - v. not permanently alter the site upon which it is located.
- b. The District may apply any conditions to the permit, including but not limited to the hours of operation, square footage, appearance, screening, site rehabilitation or clean up, or any other matters deemed appropriate by Council.



- c. Temporary Use Permits may be issued for a period of up to three years and may be renewed once for a second period of up to three years.
- d. Temporary Use Permits may be issued in all areas of the District.

### **Agriculture Plan, District of Lake Country, September 2020**

Goal 1: Support agriculture throughout government process, policy, and regulation.

- 1.5 Update existing temporary farmworker housing policy and associated zoning.
- 1.6 Enhance compliance and enforcement for farmland protection.

### **Zoning Bylaw 561, 2007**

**AGRICULTURAL DWELLINGS, ADDITIONAL** means any dwelling on a property assessed as a farm by the BC Assessment Authority that is used to house full-time or permanent seasonal farm workers. This may include but is not limited to single detached houses, manufactured homes, or bunkhouses. (Amended by bylaw 719)

**MOBILE HOME** means a detached dwelling unit designed to be transportable on wheels. This may include homes constructed to CSA Z240 or similar certified standards or park model trailers constructed to CSA Z241 or similar certified standards for residential occupancy.

**Section 12 Agricultural Zones:** in regard to housing

Section 12.1.2 Principal Uses (j) single dwelling housing or a mobile home

Section 12.1.3 Secondary Uses on land classified as “farm” (Assessment Act):

- (d) additional single dwelling housing as per Section 12.1.5.  
(usually interpreted to be referring to (c))
- (i) one mobile or manufactured home as per Section 12.1.5.(b)
- (m) seasonal accommodation for farm help

Section 12.1.3 (m) allows seasonal accommodation for farm help as a secondary use on lands classified as “farm”.

Section 3.3.3 Definitions: Seasonal accommodation for farm help: means any building that is used for temporary or seasonal accommodation for farm workers employed on the same site as the farm operation. Seasonal accommodation must be used for farm help only and must not be continuously occupied for a period of 270 days per year.

Section 12.1.5

- (b) one mobile home (up to 9 m in width) for immediate family members or farm help on parcels classified as “farm” for assessment purposes;
- (c) additional single-family dwellings necessary for farm purposes on parcels classified as “farm” for assessment purposes and approved by Council pursuant to Section 18 of the Agricultural Land Commission Act;
- (d) seasonal accommodation to satisfy demand for seasonal farm help on parcels classified as “farm” for assessment purposes. Seasonal accommodations:
  - Must include no more than 15m<sup>2</sup> (150ft<sup>2</sup>) of private space per sleeping unit
  - Must include shared cooking and washroom facilities
  - Must not be placed on a permanent foundation
  - May be built to a ratio of up to 10 sleeping units per hectare of farmland

### **IMPACT ON INFRASTRUCTURE OR MUNICIPAL SERVICES**

There is no anticipated impact on infrastructure or municipal services.

### **IMPACT ON STAFF CAPACITY AND FINANCIAL RESOURCES**

If the application is approved by the Agricultural Land Commission a Temporary Use Permit will be required.

## COMMENTS FROM EXTERNAL AGENCIES, COMMITTEES AND STAKEHOLDERS

Agricultural Land Commission staff confirmed that ALC approval for a non-adhering residential use was required for the second temporary residence. They provided the following comments: The ALR Use Regulation permits two residences per parcel: one principal residence up to 500 m<sup>2</sup> and one additional residence up to 90 m<sup>2</sup> (or 186 m<sup>2</sup> for parcels greater than 40 ha). The ALC doesn't regulate the form of structures, just the size. Local governments have the ability to further regulate residences, including size (e.g., Richmond has a 400 m<sup>2</sup> maximum size for the principal), form (e.g., prohibiting RVs or tiny homes) and number (e.g., permitting only one residence).

Only two residences are permitted in the ALR, regardless of form. RVs are considered a residence if they are occupied. In this case, because they are proposing three or more residences, a Non-Adhering Residential Use application is required.

The Commission cannot approve an additional (third) residence unless it is necessary for a farm use. This is written into the ALC Act, in [section 25\(1.1\)](#). Necessary is the key word – it is a higher threshold than simply involved in farming. The Commission would consider the size, intensity, and scale of the current farming operation as well as the use of the other residence to determine if additional residences are necessary.

The Agricultural Advisory Committee reviewed the proposal on February 13, 2023. The recommendation from the approved meeting minutes was as follows:

*It was Moved and Seconded*

*THAT the Agricultural Advisory Committee finds collective micro-farming should be encouraged in Lake Country.*

*The application of ALR2021-001 at 5165 Pada Road would appear to be a positive example of collective micro-farming and should be encouraged. This farming operation would appear to have a positive impact on agriculture in Lake Country. The Agricultural Advisory Committee recommends that a way be found so that the two tiny homes on the property be permitted to continue to be occupied so that collective micro farming can continue on the property.*

*Carried.*

Following the Agricultural Advisory Committee review the application was circulated to additional provincial departments:

BC Agriculture stated that the size, type and intensity of the farm operations would not typically require additional people to live on site. In addition, the Ministry's [Guide for Bylaw Development in Farming Areas](#) states that additional residences should be on a contiguous residential footprint with the principal residence in order to discourage future subdivision pressure. The tiny houses in this case are located some distance from the principal residence.

Interior Health stated that housing is a key determinant of health. It has a significant influence on our physical and mental health, social well-being, and indirectly influences many other determinants of health such as income, early childhood development, educational opportunities, and access to health services. Healthy housing is attainable, stable, high quality, and in a location and community that meets our needs and supports health and well-being.

Interior Health also recommended that the District of Lake Country ensure that the existing sewerage disposal systems serving the two tiny homes have adequate performance, condition, size, and location for the intended use.

Onsite sewerage disposal systems will be addressed at the District's temporary use permit process should this application be forwarded to the ALC by Council and the ALC approves this use.

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**CONSULTATION AND COMMUNICATION**

No public consultation or communication is required for this application. If this proposal is approved by the ALC, public consultation of adjacent properties within 50m, will be required for the Temporary Use Permit application.

**ANALYSIS OF OPTIONS FOR CONSIDERATION**

The ALR application process requires a joint approval of the application both at the Local Government and at the Provincial Commission levels.

**Options A or B:** Council has the option to support or not to support the application, and forward the application to the ALC. The ALC will take Council's recommendation into consideration when making their decision. In either case, if the ALC decision is to approve the request, the applicant will be able to apply to the District for a Temporary Use Permit.

**Option C:** If Council does not wish to consider a Temporary Use Permit for the two temporary residences at this location, they can choose not to support the application and not to forward it to the ALC for consideration. The District will require the applicant to remove the two temporary residences.

**Option D:** If Council requires additional information before making a decision regarding the application, staff will work with the applicant to ensure the required information is submitted. Once the information is received, staff will bring the application back to Council for consideration.

Respectfully Submitted,  
Inonge Aliaga, Senior Planner



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**Report Approval Details**

Document Title:	
Attachments:	- Attachment A. ALC Submission.pdf
Final Approval Date:	

This report and all of its attachments were approved and signed as outlined below:

**Jared Kassel, Director of Planning & Development -**

**Tanya Garost, Chief Administrative Officer -**

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**Report Approval Details**

Document Title:	RFCD-ALR2021-001 - 5165 Pada Road- Non-adhering Residential Use.docx
Attachments:	- A. ALR Application 2021-01-21.pdf - B. Archaic Revival Business Plan .pdf - C. Hygge House Farms Operations .pdf
Final Approval Date:	May 25, 2023

This report and all of its attachments were approved and signed as outlined below:

**Brian Zurek, Manager of Planning - May 19, 2023 - 11:26 AM**

**Jared Kassel, Director of Planning & Development - May 19, 2023 - 3:18 PM**

**Reyna Seabrook, Director of Corporate Services - May 23, 2023 - 10:56 AM**

**Tanya Garost, Chief Administrative Officer - May 25, 2023 - 10:55 AM**