

Agricultural Advisory Committee

AGENDA



Thursday, August 8, 2019
6:00 pm
Council Chamber
City Hall, 1435 Water Street

Pages

1. Call to Order

THE CHAIR WILL CALL THE MEETING TO ORDER:

- (a) The purpose of this Meeting is to consider certain Development Applications as noted on this meeting Agenda.
- (b) The Reports to Committee concerning the subject development applications are available on the City's website at www.kelowna.ca.
- (c) All representations to the Agricultural Advisory Committee form part of the public record.
- (d) As an Advisory Committee of Council, the Agricultural Advisory Committee will make a recommendation of support or non-support for each application as part of the public process. City Council will consider the application at a future date and, depending on the nature of the file, will make a decision or a recommendation to the Agricultural Land Commission.

2. Minutes

3 - 4

Approve Minutes of the Meeting of June 13, 2019.

3. Applications for Consideration

- 3.1 A19-0004, 4145 June Springs Rd - Application to the ALC for Subdivision of Agricultural Land Reserve 5 - 13
- 3.2 A19-0009, 298 Cornish Rd - Application to the ALC for a Non-Adhering Residential Use - principal residence area greater than 500m². 14 - 39
- 3.3 A19-0011, 2568 KLO Rd - Application to the ALC for Non-Adhering Residential Use – Additional Residence for Farm Use 40 - 44

4. ALC Decisions - Update

5. New Business

6. Next Meeting

September 12, 2019

7. Termination of Meeting

Agricultural Advisory Committee Minutes

Date: Thursday, June 13, 2019
Time: 6:00 pm
Location: Council Chamber
City Hall, 1435 Water Street

Committee Members Present: Aura Rose, Jeff Ricketts, Avi Gill, Yvonne Herbison, Domenic Rampone and Jill Worboys

Committee Members Absent: John Janmatt, Keith Duhaime, Derek Brown and Pete Spencer (Alternate)

Staff Present: Planner Manager, Laura Bentley; Planning Specialist, Alex Kondor; Legislative Coordinator (Confidential), Clint McKenzie

1. Call to Order

Staff called the meeting to order at 6:02 p.m.

In the absence of the Committee Chair, staff requested the Committee nominate a Vice Chair so they can chair the meeting.

Moved By Domenic Rampone/Seconded By Aura Rose

THAT Yvonne Herbison be nominated as Vice Chair.

Carried

2. Minutes

Moved By Yvonne Herbison/Seconded By Jeff Ricketts

THAT the Minutes of the May 9, 2019 Agricultural Advisory Committee meeting be adopted.

Carried

3. Reports

3.1 Regulatory Options for Cannabis Production in the ALR

Staff:

- Displayed a PowerPoint presentation providing a background on cannabis production in the Agricultural Land Reserve (ALR).
- Outlined potential impacts of cannabis production including demand on services and utilities, water and wastewater systems.
- Confirmed that the zoning bylaw prohibits cannabis sales under farm retail sales use.

- Outlined three options to regulate cannabis production and related uses in the ALR:
 1. Allow all forms as per the ALC Act
 2. Limit cannabis production to soil based production
 3. Require Council approval for production

Discussion ensued by the Committee regarding the pros and cons of each option. Staff responded to questions from the Committee.

Committee members provided their individual comments.

Staff confirmed that any municipal regulations being put into place would be specific to cannabis production versus all farm products.

Moved By Domenic Rampone/Seconded By Jeff Ricketts

THAT the Committee recommend requiring Council approval for all applications for cannabis production.

Carried

ANEDOTAL COMMENTS

- Encourage Council to have strong bylaws and policies so there is clarity and consistency moving forward.
- Encourage Council to support small micro cannabis farming facilities.
- Encourage Council to protect the future food production of our agricultural lands.

4. ALC Decisions - Update

There are no updates.

5. New Business

No new business

6. Next Meeting

The next Committee meeting has been scheduled for July 11, 2019.

7. Termination of Meeting

The Vice Chair declared the meeting terminated at 7:20 p.m.

Vice Chair

COMMITTEE REPORT



Date: August 8, 2019
RIM No. 1210-21
To: Agricultural Advisory Committee (AAC)
From: Development Planning
Application: A19-0004 **Owner:** Donna Nicholas
Address: 4145 June Springs Road **Applicant:** Peter Klimuk
Subject: Application to the ALC for "Subdivision of Agricultural Land Reserve"

1.0 Purpose

The applicant is requesting permission from the Agricultural Land Commission for a "Subdivision of Agricultural Land Reserve" under Section 21(2) of the Agricultural Land Commission Act.

2.0 Proposal

2.1 Site Context

The application is to subdivide the property into two lots, 2.0 ha in size including the existing single family dwelling and a vacant 1.0 ha lot. The property has been owned by the family since 2009 and there is currently no agricultural activity or improvements on the subject property. The property is located in the City's Southeast Kelowna Sector. The Future Land Use is REP – Resource Protection and it is within the Agricultural Land Reserve. It is located outside of the Permanent Growth Boundary.

Parcel Summary – 4145 June Springs Road:

Parcel Size: 3.0 ha (7.41 acres)
 Elevation: 546.0 to 549.0 metres above sea level (masl) (approx.)

Zoning and land use adjacent to the property are as follows:

Table 1: Zoning and Land Use of Adjacent Property

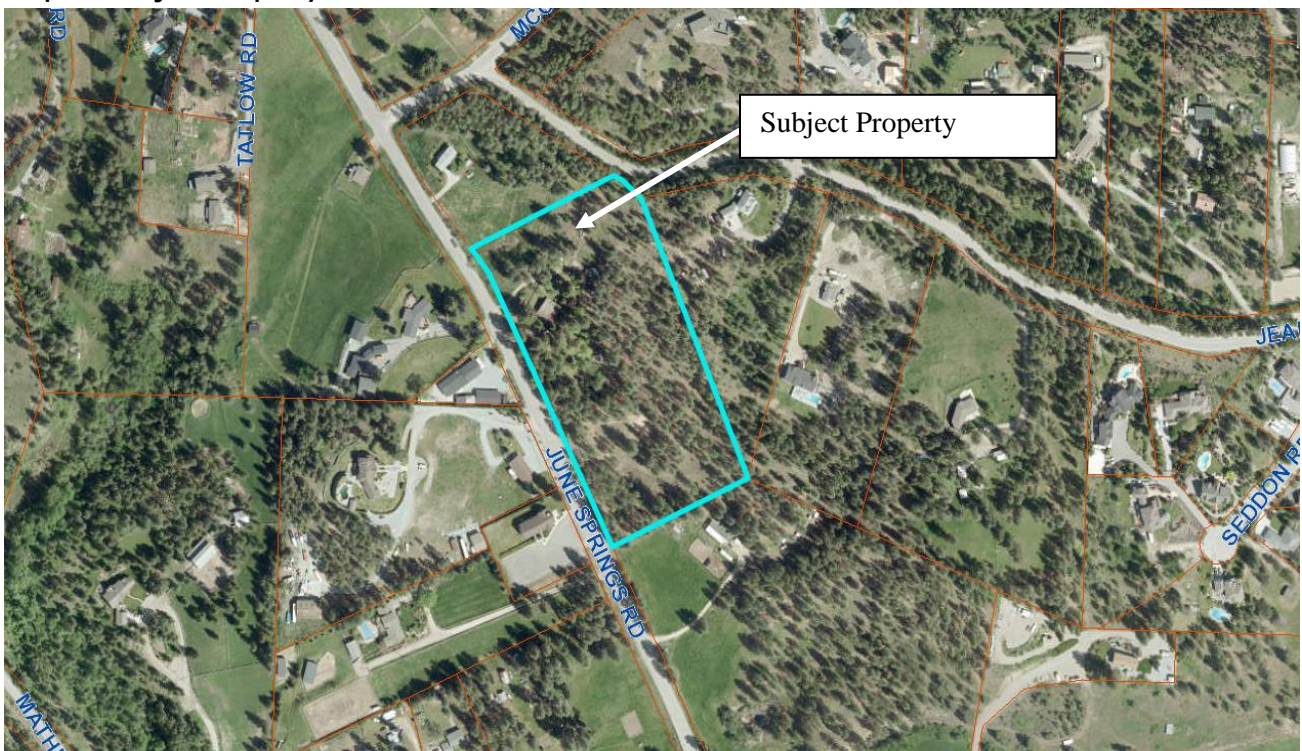
Direction	Zoning	ALR	Land Use
North	RR1 – Rural Residential 1	Yes	Agriculture / Residential
South	A1 – Agriculture 1	Yes	Agriculture / Residential
East	RR1 – Rural Residential 1	No	Residential
West	A1 – Agriculture 1	Yes	Agriculture / Residential

3.0 Community Planning

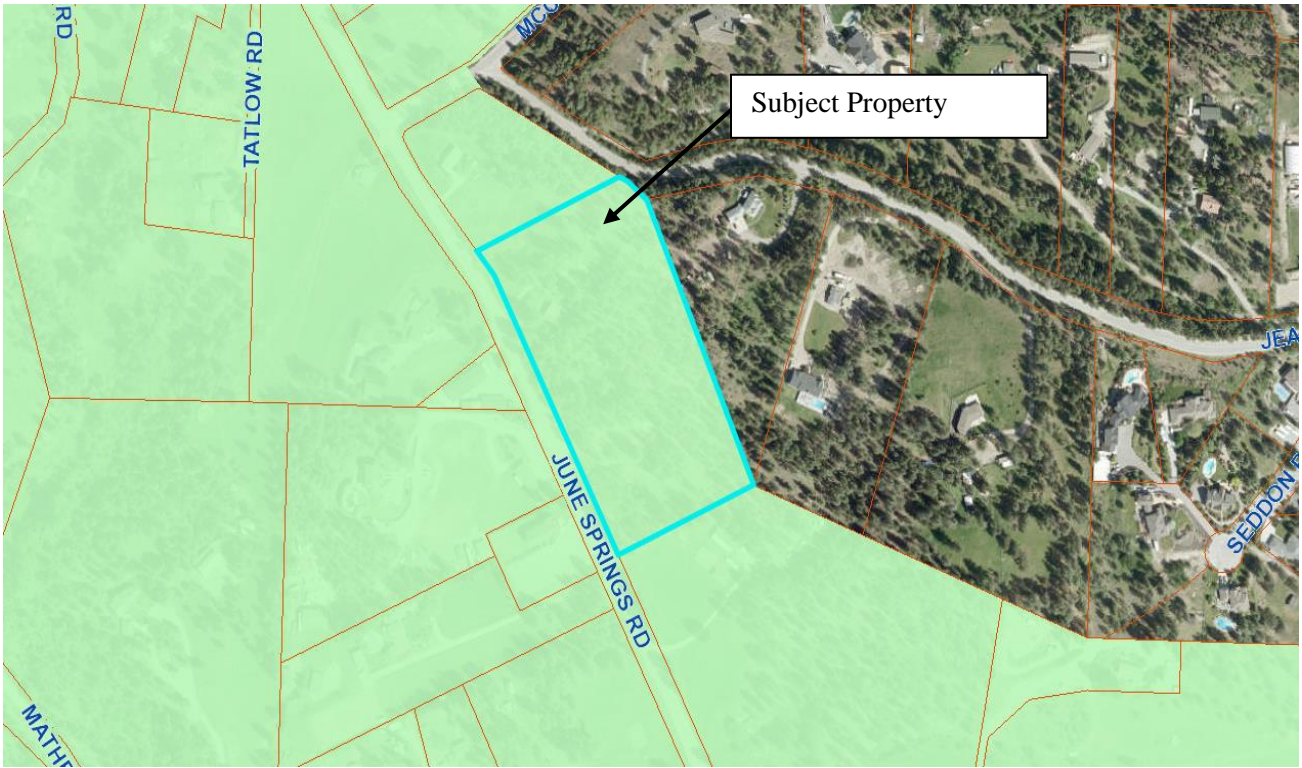
Community Planning Staff are requesting for the Agricultural Advisory Committee to provide a recommendation for Council (of either support or non-support) for the application to the ALC for a "Subdivision of Agricultural Land Reserve".

The subject property is located outside of the City's Permanent Growth Boundary (PGB) and is designated Resource Protection Area (REP). Lands outside the PGB and within the REP designation are generally not supported for any further parcelization. Both the City's Agriculture Plan and the OCP recommend not supporting subdivision in the ALR unless it provides a significant positive benefit to agriculture. In this case there is no agricultural activity taking place on the property however smaller parcel size is considered not to be conducive to agricultural uses.

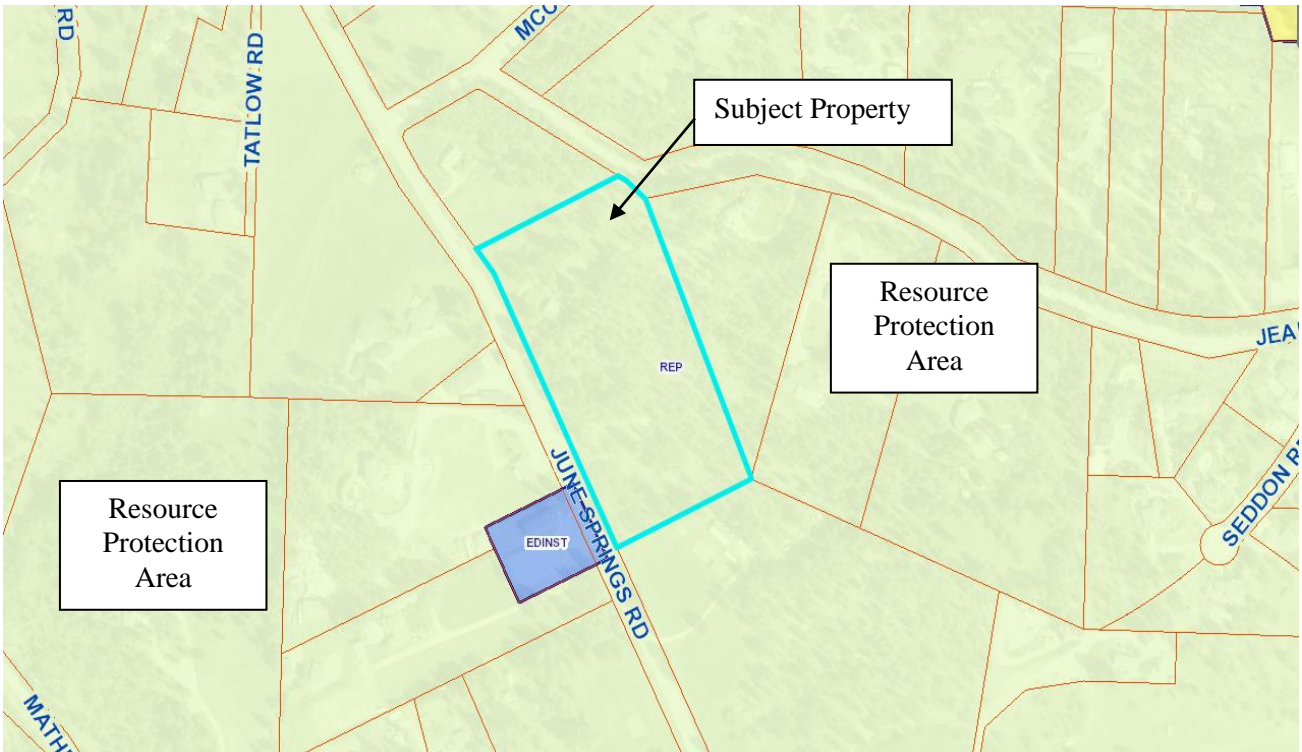
Map 1 – Subject Property



Map 2 – Agricultural Land Reserve



Map 3 – Future Land Use



Report prepared by:
Approved for Inclusion:

Wesley Miles, Planner Specialist
Dean Strachan, Community Planning and Development Manager

Attachments:

Schedule A – Policies
Schedule B – Technical Comments
Schedule C – Proposed Plan of Subdivision

SCHEDULE A - Policies



Subject: 4145 June Springs Road – Application for Subdivision in the ALR

1.1 City of Kelowna Agriculture Plan (2017)

Action 1.3e - Update zoning bylaw subdivision regulations to increase the minimum lot size in the ALR from 2.0 ha to 4.0 ha in order to create a consistent minimum lot size of 4.0 ha for all of the A1 zone.

1.2 Kelowna Official Community Plan (OCP)

Chapter 4: Future Land Use

Resource Protection Area

Generally, land areas within this designation (whether they are within the permanent growth boundary or not) will not be supported for exclusion from the ALR or for more intensive development than that allowed under current zoning regulations, except in specific circumstances where the City of Kelowna will allow exceptions to satisfy civic objectives for the provision of park/recreation uses.

Permanent Growth Boundary

Lands within the permanent growth boundary may be considered for urban uses within the 20 year planning horizon ending 2030. Lands outside the permanent growth boundary will not be supported for urban uses.

Agricultural Land Use Policies

Objective 5.33 Protect and enhance local agriculture.

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 .7 Subdivision. Maximize potential for the use of farmland by not allowing the subdivision of agricultural land into smaller parcels (with the exception of Homesite Severances approved by the ALC) except where significant positive benefits to agriculture can be demonstrated.

1.3 Agricultural Land Commission Act (ALCA)

Purposes of the commission – Section 6 of the ALCA

The following are the purposes of the commission:

- (a) to preserve agricultural land;
- (b) to encourage farming on agricultural land in collaboration with other communities of interest;
- (c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

1.4 Agricultural Land Reserve Use, Subdivision and Procedure Regulation (ALR Regulation)

Permitted uses for land in an agricultural land reserve – Section 3 of the ALR Regulation

- (f) biodiversity conservation, passive recreation, heritage, wildlife and scenery viewing purposes, if
 - (i) the area occupied by any associated buildings and structures does not exceed 100 m² for each parcel, and
 - (ii) the purpose does not include the creation of a wetland intended to manage urban runoff or waste;
- (g) use of an open land park established by a local government or treaty first nation government for any of the purposes specified in paragraph (f);

SCHEDULE B – Technical Comments



Subject: 4145 June Springs – Application for Subdivision in the ALR

1.1 Interior Health

No comments provided at time of writing.

1.2 South East Kelowna Irrigation District

No comments provided at time of writing.

1.3 Ministry of Agriculture

Thank you for providing the B.C. Ministry of Agriculture the opportunity to comment on the proposed subdivision application for 4145 June Springs Road. I have reviewed the documents you have provided. From an agricultural perspective I can provide the following comments for your consideration:

- Ministry of Agriculture staff have concerns with this proposal. Subdivision and the creation of smaller lots can erode the long term agricultural and economic potential of a parcel, increase land cost per acre limiting farm businesses, and in some cases, have been shown to increase conflict between adjacent farm uses.
- The parcel is located within the Agricultural Land Reserve (ALR), a provincial zone in which agriculture is recognized as the priority use and where farming is encouraged, and non-agricultural uses are restricted.
- In reviewing the Agricultural Capability Classes and Soil Surveys of the parcels, they are sandy loam and classified as rapidly drained. The Agricultural Capability is Class 5A, indicating that there some restrictions as to what can be produced on these fields. Subclass A signifies a moisture deficiency, which is improvable through irrigation. The improved rating is 3A for this property.
- If any additional access points and structures are to be established on these parcels, they should be sited in a way that minimizes impact on most arable/productive areas.
- If subdivision were to take place it is highly recommended that appropriate, lawful fences are established for both resulting parcels. This is an important step in agricultural areas and can be a key step in protecting both parcels and any owners/future owners from issues such as livestock being at large as well as reducing the potential for complaints and conflict.
- Further, if subdivision were to take place and unless indicated by the ALC approval decision, the resulting parcels would remain on the ALR and continue to be subject to all pertinent regulations and policies.

1.4 Regional District of Central Okanagan

Thank you for the opportunity to respond to the above noted referral. RDCO provides non-support and the following comments:

Regional Growth Strategy Bylaw No. 1336

- Section 3.2.1 Our Land, Policy No. 8 "Support the protection of ALR lands and land uses which are supportive and/or complementary to agricultural use"
- Section 3.2.5 Our Food, Policy No. 7 "Protect the supply of agricultural land and promote agricultural viability"

It is noted that the Ministry of Agriculture's Agricultural Land Use Inventory (May 2016) states the following:

- Parcel Size & Farming
 - o "Parcel size must be considered when determining the agricultural potential of a parcel. Larger parcels usually allow farmers greater flexibility to expand or change their type of operation as the economy and markets change."
 - o "Smaller parcels are generally more costly per hectare than larger parcels and can easily be disassembled from larger farm units and sold."

SCHEDULE C

This forms part of application

A19-0004

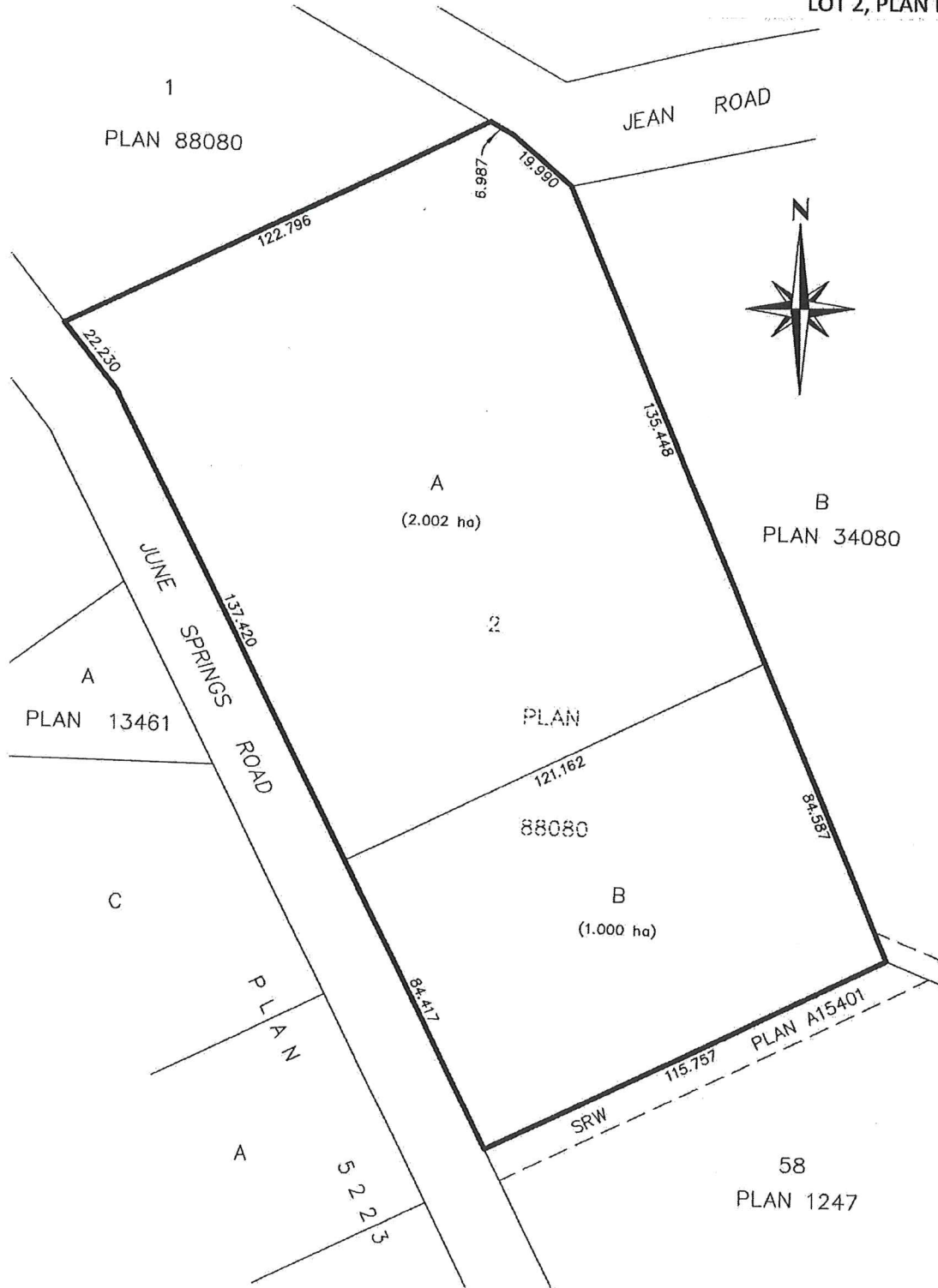


City of
Kelowna
DEVELOPMENT PLANNING

Planner
Initials **WM**

- APPENDIX #2 -

Proposed Plan of Subdivision
4145 June Springs Road, Kelowna
LOT 2, PLAN KAP 88080



COMMITTEE REPORT



Date: August 8th, 2019

RIM No. 1210-21

To: Agricultural Advisory Committee (AAC)

From: Development Planning Department (AT)

Application: A19-0009 **Owner:** Balwinder S. Baring, Harpreet K. Baring, Sukhwinder S. Baring, Gurpreet K. Baring

Address: 298 Cornish Road **Applicant:** Balwinder Baring

Subject: Application to the ALC for a non-adhering residential use

1.0 Purpose

To consider a non-adhering residential use permit application to allow a principal residence with total floor area greater than 500m² (653m²) on the property located at 298 Cornish Road.

2.0 Proposal

2.1 Background

On February 22, 2019 the Agricultural Land Commission (ALC) introduced new regulations pertaining to residential uses on land in the Agricultural Land Reserve (ALR). As part of the new regulations the ALC has restricted principal residences to 500m² total floor area (ALCA s. 20.1(1)(b)). New residences proposed to be greater than 500m² now require an application for a non-adhering residential use permit (see Attachment A). The only exception is as follows: an application for a primary residence greater than 500m² that received a Building Permit by February 22, 2019 is exempt from requiring a non-adhering residential use permit provided construction begins by November 5, 2019.

The subject property at 298 Cornish Rd. is 3.7 hectares (9.3 acres) and is vacant. The property is owned by the Baring family, and they have farmed the land since purchasing it in 2017. There are 4 owners on Title: Harpreet Baring, her husband Balwinder Baring, Balwinder's brother Sukhwinder Baring, and his wife Gurpreet Baring. The Barings also own a property approximately ½ km to the east at 625 Cornish Rd., which they also farm, and where they live in a single family home; the home has 3 bedrooms and is approximately 370m². Also living in the home are Balwinder and Sukhwinder's parents, as well as Balwinder and Harpreet's child, and Sukhwinder and Gurpreet's 2 children (9 family members total). The Baring's have owned and farmed the property at 625 Cornish Rd. since 2006.

Both Balwinder and Harpreet; and Sukhwinder and Gurpreet are intending to grow their families. In order to accommodate their growing family, the Barings plan to build a new home at 298 Cornish Rd. and sell the property at 625 Cornish Rd. The floor area of the proposed home is 653m² according to the ALC's definition

of 'net floor area', which includes garage space over 42m² (the proposed home is 574m² when no garage space is included) (see Attachment B, Section 11. Glossary).

The Barings had their proposed home designed between September and November 2018, 6 months before the ALC instituted their new rules regarding the maximum size of a principal residence on February 22, 2019. The Barings did not submit a building permit application at once, as they yet had to register a residential footprint covenant on Title (as per Section 11.1.6(c) of Zoning Bylaw No. 8000), which was completed on March 19, 2019.

2.2 Project Description

The applicant proposes to construct a new single family home with secondary suite on the subject property. The floor area of the proposed home is 653m² according to the ALC's definition of 'net floor area', which includes garage space over 42m² (the proposed home is 574m² when no garage space is included).

The proposed home has a residential footprint of 551m² and is entirely within the 2000m² residential footprint area registered on Title. The 2000m² residential footprint area is at the southeast corner of the lot, adjacent to Cornish Rd., in an area of the property that minimizes the residential impact to agriculture (see Attachment C).

2.3 Site Context

The subject property is 3.7ha (9.3 acres) and is vacant, but is planted with treefruits including cherries and berries.

2.4 Neighbourhood Context

The Subject property is on Cornish Rd. approximately 200m east of Rutland Rd. N at the north end of the Rutland Sector. The property is zoned A1 – Agriculture 1 and is in the Agricultural Land Reserve (ALR), as are all surrounding properties.

Map 1 - Neighbourhood



3.0 Development Planning

The ALC has restricted the total floor area of a principal residence to 500m² for the following reason:

To “End[] the proliferation of large mansions and lifestyle estates in the ALR which inflate land prices and place agricultural land out of the reach of current and new farmers and ranchers” (ALC Website, “The ALC Act and ALR Regulations”, Accessed July 24, 2019) (see also Attachment E).

At the same time, the Ministry of Agriculture has recognized the important role that multigenerational farming families play in agriculture, and acknowledge that large farming families may need additional living space over and above that listed in the regulation. In a press release issued on February 23, 2019 (one day after the new regulation took effect) the Ministry issued the following quote:

“Multigenerational farming families are the backbone of agriculture throughout B.C.” / “...we’re supporting larger farming families by ensuring that those who need extra living space to support their farming operations have a path forward at the ALC to build a larger home” (see Attachment D).

For its part, the City of Kelowna Agriculture Plan (2017) recommends investigating the adoption of a maximum total floor area for a principal dwelling in the A1 zone based on Ministry of Agriculture guidelines (Table 3, ID1.3b). The reason offered for pursuing such an investigation is to address the concern of “the purchase of farmland with no intention of farming, followed by construction of significantly large homes” (Agriculture Plan, p. 15). In this case, the applicant (the Baring family) has been farming land in the area since 1999, and has every intention of continuing to farm the land into the future. The large size of the proposed home is to accommodate a large and growing family dedicated to farming. The Agriculture Plan is silent regarding multigenerational farming families.

In this case, it is also worthy of consideration that the Barings had commissioned the design of their proposed home prior to the new regulations regarding non-adhering residential uses coming into effect. The ALC has made provision for grandfathering, but this provision requires that any proposal would have had to have had a building permit by the day the regulations came into effect. This does not cover applicants who may have incurred design costs in the period immediately prior to the regulations coming into effect who were not able to apply for a building permit by the time the regulations did come into effect, which is the case here.

Report prepared by:

Aaron Thibeault, Planner II

Approved for Inclusion:



Dean Strachan, Community Planning & Development Manager

Attachments:

Attachment A – Policies

Attachment B – ALC Information Bulletin 5: Residences in the ALR

Attachment C – Residential Footprint Area Plan & Site Plan

Attachment D – Ministry of Agriculture Press Release, February 23, 2019

Attachment E – Ministry of Agriculture Referral Comments

ATTACHMENT A - Policies



Subject: 298 Cornish Road, A19-0009

Agricultural Land Commission Act (ALCA)

Purposes of the commission – Section 6

The following are the purposes of the commission:

- (a) to preserve agricultural land;
- (b) to encourage farming on agricultural land in collaboration with other communities of interest;
- (c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

Residential use of agricultural land – Section 20.1

- (1) Unless permitted under section 20.2, 25 or 45 or the regulations, an owner of agricultural land who constructs, alters or uses a residential structure on the agricultural land must comply with all of the following:
 - (b) the total floor area of a principal residence must be 500m² or less
- (2) an owner may apply
 - (a) to the commission for permission under section 25 for a non-adhering residential use



INFORMATION BULLETIN 05

RESIDENCES IN THE ALR

Revised: May 8, 2019
Revised: February 26, 2019
Issued: February 25, 2019

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1. SCOPE OF THIS INFORMATION BULLETIN

This information bulletin provides guidance to assist in interpreting the *Agricultural Land Commission Act*, S.B.C. 2002, c. 36 (**ALCA**) and the Agricultural Land Reserve Use Regulation (the **ALR Use Regulation**), in relation to residences in the agricultural land reserve (**ALR**). The ALCA and ALR Use Regulation will govern if inconsistent with this bulletin.

This information bulletin is directed only to interpretation of the ALCA and the ALR Use Regulation. All other applicable laws, regulations and bylaws related to residential uses must also be complied with.

2. RECENT CHANGES TO STATUTE AND REGULATIONS

Effective February 22, 2019, the ALCA has been amended and the ALR Use Regulation has been created. Though many concepts contained in the ALCA and its regulations are unchanged from the past, there have been changes to the use of ALR land for residences. All references in this information bulletin to the ALCA and the ALR Use Regulation are as of February 22, 2019, unless otherwise stated.

The following is a summary of key residential changes to the ALCA and the ALR Use Regulation:

- Generally land in the ALR may have **no more than one residence** per parcel: ALCA, s. 20.1(1)(a), subject to certain grandfathering exceptions (see “Grandfathering Provisions” section). In addition, the Commission may approve an application for an additional residence if necessary for farm use, but the Commission is prohibited from approving an additional residence otherwise: ALCA, s. 25(1.1).
- New size, siting and use requirements apply to residential structures: ALCA, s. 20.1(1)(c).
- The **total floor area of a principal residence must be 500 m² or less** in order to comply with the ALCA, though a local government may impose a lower size cap under their bylaws: ALCA, ss. 20.1(1)(b), 46. The Commission has resolved on a definition of “total floor area” for the purpose of the ALCA and ALR Use Regulation, as set out in the “Glossary” section at the end of this bulletin.
- The ALCA and regulations had previously contained provisions facilitating the construction of additional dwellings for farm help, manufactured homes for immediate family members, accommodation above an existing farm building, or (in parts of the province) a second single family dwelling. These provisions are no longer found in the ALCA and the ALR Use Regulation, though the ALCA provides some grandfathering protection for pre-existing structures of these kinds and the Commission may approve an application for an additional residence if necessary for farm use.

- If a landowner wishes in the absence of certain grandfathering exceptions to have a principal residence having a total floor area that is more than 500 m², to have an additional residence, or to use a residential structure in a manner that contravenes the regulations, the landowner may submit an application to the Commission, through the local government, seeking Commission approval: ALCA, ss. 20.1(2), 25. The ALCA calls this type of application an “**application for a non-adhering residential use**”. More information about this type of application is provided later in this bulletin under the heading “Applications for Non-Adhering Residential Use”.

3. ROLE OF LOCAL GOVERNMENTS

A. Role as Approving Body

I. Principal Residence

In order to comply with the ALCA, an approving body such as a local government may not approve or permit construction or alteration of a principal residence on ALR land unless the principal residence has a total floor area of 500 m² or less and is sized, sited and used in accordance with the ALR Use Regulation, or is permitted by the Commission on application: ALCA, s. 18. See the Section 11 “Glossary”, found at the end of this bulletin, for the definition of “**total floor area**”.

II. Additional Residence

An approving body may not approve or permit construction or alteration of an additional residence on ALR land unless the residence is approved by the Commission on application or is permitted under the ALR Use Regulation: ALCA, s. 18.

B. Applications

An application to the Commission asking it to approve a non-adhering residential use, such as new construction of a principal residence with a total floor area of more than 500m² or an additional residence, may be submitted through the landowner’s local government. For more information on the process for making applications to the Commission, please see the Commission’s website, at www.alc.gov.bc.ca/alc/content/applications-and-decisions as well as Section 10 of this information bulletin entitled “Applications For Non-Adhering Residential Use”.

C. Consistency with Zoning and Other Bylaws

Any portion of a local government bylaw that purports to allow a use of land in the ALR that is not permitted under the ALCA or the ALR Use Regulation, or contemplates a use of land that would impair or impede the intent of the ALCA or the ALR Use Regulation, is inconsistent with the ALCA or the ALR Use Regulation and has no force or effect: ALCA, ss. 46(4), (5).

For example, **if a zoning bylaw provides for more residences on ALR land than do the ALCA and the ALR Use Regulation, its provision for extra residences is of no force or effect and cannot be relied on.**

Construction, alteration or use of any residences in contravention of the ALCA or the ALR Use Regulation may be subject to compliance and enforcement action even if the construction, alteration or use seems to be in compliance with a local government bylaw.

D. Local Government May Restrict

Local government bylaws can be more restrictive of residential use of the ALR than the ALCA: ALCA, s. 46(6). The ALR Use Regulation identifies certain designated farm uses and permitted non-farm uses that local governments must not prohibit, but places no limitation on local government powers to prohibit or otherwise restrict residential uses of ALR land. **As such, a local government may impose restrictions on sizing, siting and use of principal residences on ALR land additional to those found in the ALCA.** For example, a local government could enact a bylaw imposing a size limit smaller than 500 m² total floor area on principal residences on ALR land.

E. Areas Without Zoning Bylaws

Note that some areas of the province do not have zoning bylaws. The absence of local zoning bylaws does not relieve a landowner from complying with the restrictions in the ALCA and ALR Use Regulation.

4. NEW CONSTRUCTION OF A RESIDENCE ON ALR LAND THAT HAS NO EXISTING RESIDENCE

No application is required to the Commission in order to construct a residence with a total floor area of 500 m² or less on a parcel of ALR land which has **no existing residence** (a “**vacant parcel**”).

The Commission will consider the residence when built on a vacant parcel to be the “principal residence”.

If the proposed principal residence is more than 500m² or there is already another residence located on the ALR land, in order to construct the residence the landowner must apply to the Commission through the local government and obtain permission from the Commission: ALCA, s. 20.1(1).

“Construct” includes “to build a new structure” or “to place on land a new structure that is fully or partially pre-fabricated”: ALCA, s. 1(1).

5. GRANDFATHERING PROVISIONS

A. Completing a Residential Construction Initiated by February 22, 2019

If by February 22, 2019 a landowner had already initiated construction of a residence in the ALR, in certain circumstances the owner may be able to complete that work without application to the Commission. In other circumstances, the work will not be able to proceed unless the Commission first approves an **application for a non-adhering residential use** made by the owner: ALCA, ss. 20.1(2), 25. See Section 10 “Applications for Non-Adhering Residential Use” later in this bulletin.

I. Unfinished Principal Residence

Total Floor Area of 500 m² or less

If the landowner is completing construction of an unfinished principal residence which will on completion have a total floor area of **500 m² or less** and is otherwise also compliant with the ALCA and regulations, the owner may complete that construction without applying to the Commission for permission to do so.

Total Floor Area of more than 500 m²

If the landowner is completing construction of an unfinished principal residence which will, if completed as designed, have a total floor area of **more than 500 m²**, the landowner may continue if:

- a) Where building permit authorization **is required** by local government bylaw
 - all required authorizations to construct the residence were granted before February 22, 2019 and construction of the foundation of the residence substantially begins on or before November 5, 2019, AND
 - from the date construction of the residence began until completion, the construction or alteration (i) is carried out in accordance with all applicable authorizations and enactments, and (ii) continues without interruption, other than work stoppages considered reasonable in the building industry; OR
- b) Where building permit authorization **is NOT required** by local government bylaw
 - if no authorizations to construct the residence are required, construction of the foundation of the residence had substantially begun before February 22, 2019; AND
 - from the date construction of the residence began until completion, the construction or alteration (i) is carried out in accordance with all applicable authorizations and enactments, and (ii) continues without interruption, other than work stoppages considered reasonable in the building industry.

II. Unfinished Additional Residence

If the landowner is completing construction of a residence that, **if completed as designed**, will be an additional residence, the landowner may do so if:

- a) Where building permit authorization **is required** by local government bylaw
 - all required authorizations to construct the residence were granted before February 22, 2019 and construction of the foundation of the residence substantially begins before February 22, 2019, AND
 - from the date construction of the residence began until completion, the construction or alteration (i) is carried out in accordance with all applicable authorizations and enactments, and (ii) continues without interruption, other than work stoppages considered reasonable in the building industry; OR
- b) Where building permit authorization **is NOT required** by local government bylaw
 - if no authorizations to construct the residence are required, construction of the foundation of the residence had substantially begun before February 22, 2019; AND
 - from the date construction of the residence began until completion, the construction or alteration (i) is carried out in accordance with all applicable authorizations and enactments, and (ii) continues without interruption, other than work stoppages considered reasonable in the building industry.

B. Completing Residential Alterations Initiated by February 22, 2019

If an owner wants to complete alterations to a residence on ALR land that had been initiated prior to February 22, 2019, the owner may do so without application to the Commission only in limited circumstances.

To “alter” means “(a) to alter the exterior of a structure so as to increase its size; (b) to move or alter the exterior walls or edges of a structure so as to change its siting”: ALCA, s. 1(1).

I. Completing Alterations to a Principal Residence

Total Floor Area of 500 m² or less

If the landowner is completing alterations to a principal residence that will not cause its total floor area to exceed **500 m²** and that will otherwise also be compliant with the ALCA and regulations, the landowner may complete those alterations without applying to the Commission for permission to do so.

Total Floor Area of more than 500 m²

Alterations that had already been commenced as of February 22, 2019 to a principal residence that, **if completed as designed**, will have a total floor area of more than 500 m², may be completed if:

- a) Where building permit authorization **is required** by local government bylaw
 - all required authorizations to alter the residence were granted before February 22, 2019 and construction of the foundation of the residence substantially begins on or before November 5, 2019, AND
 - from the date alteration of the residence began until completion, the construction or alteration (i) is carried out in accordance with all applicable authorizations and enactments, and (ii) continues without interruption, other than work stoppages considered reasonable in the building industry; OR
- b) Where building permit authorization **is NOT required** by local government bylaw
 - if no authorizations to alter the residence are required, construction of the foundation of the residence had substantially begun before February 22, 2019; AND
 - from the date alteration of the residence began until completion, the construction or alteration (i) is carried out in accordance with all applicable authorizations and enactments, and (ii) continues without interruption, other than work stoppages considered reasonable in the building industry.

II. Completing Alterations to an Additional Residence

Alterations that had already been commenced as of February 22, 2019 to a residence in the ALR that, **if completed as designed**, will be an additional residence, may be completed if:

- a) Where building permit authorization **is required** by local government bylaw
 - all required authorizations to alter the residence were granted before February 22, 2019 and construction of the foundation of the residence substantially begins before February 22, 2019, AND
 - from the date alteration of the residence began until completion, the construction or alteration (i) is carried out in accordance with all applicable authorizations and enactments, and (ii) continues without interruption, other than work stoppages considered reasonable in the building industry; OR
- b) Where building permit authorization **is NOT required** by local government bylaw

- if no authorizations to alter the residence are required, construction of the foundation of the residence had substantially begun before February 22, 2019; AND
- from the date alteration of the residence began until completion, the construction or alteration (i) is carried out in accordance with all applicable authorizations and enactments, and (ii) continues without interruption, other than work stoppages considered reasonable in the building industry.

C. New Alterations Initiated After February 22, 2019

Alterations that were not initiated by February 22, 2019 may also be undertaken in some circumstances on ALR land even without application to the Commission.

An owner who wishes to alter a residential structure that exists on ALR land on February 22, 2019 but that (a) is an additional structure; or (b) is a principal residence with a total floor area of more than 500 m²; or (c) is of a size or is sited in contravention of a regulation, may do so in some circumstances. The owner may alter the structure without applying to the Commission **only** if the alteration will lead to no further contravention of the ALCA or regulations: ALCA, s. 20.2.

The Commission expects that the alterations undertaken in the context of the above paragraph would eliminate, or at least reduce or not worsen, any pre-existing contravention of the ALCA or the regulations. It does not expect that alterations would increase the size of the residential structure or initiate a non-adhering residential use; any such alterations should be the subject of an application to the Commission.

An owner who wishes to alter a principal residence that will remain no larger than 500 m² and that will otherwise also remain in compliance with the ALCA and regulations may also do so without application to the Commission.

D. Manufactured Home on ALR Land

If on February 22, 2019, there was one manufactured home which was an additional residence, was constructed in accordance with all applicable enactments, and was used as a residence by a member of the immediate family of the owner of the land in the ALR, it may continue to be used as a residence in the ALR if on February 22, 2019 there was one manufactured home, up to 9 m in width, constructed in accordance with all applicable enactments and used as a residence by a member of the immediate family of the owner of the land in the ALR, it may continue to be used as a residence in the ALR if:

- there is no other residence on the land other than the principal residence; AND
- the size and siting of the residence is not altered after February 22, 2019 unless
 - permitted on application, OR

- the size of the manufactured home or the total area occupied by all residences and other residential structures, roads and service lines, and all agricultural land between them, as applicable, is not increased by the alteration.

ALR Use Regulation, s. 32

There is no right to replace a residential structure which is permitted due to a grandfathering exception. An application to the Commission for its approval is required to replace such a structure. See the “Replacing a Residence” section for more information.

E. Single-Level Accommodation Constructed Above an Existing Building on the Farm

If on February 22, 2019 there was accommodation that had been constructed in accordance with all applicable enactments above an existing building on the farm and that had only a single level, it may continue to be used as a residence in the ALR if:

- there is no other residence on the land other than the principal residence; AND
- the size and siting of the residence is not altered after February 22, 2019 unless
 - permitted on application, OR
 - the total area occupied by all residences and other residential structures, roads and service lines, and all agricultural land between them, as applicable, is not increased by the alteration.

ALR Use Regulation, s. 32

There is no right to replace a residential structure which is permitted due to a grandfathering exception. An application to the Commission for its approval is required to replace such a structure. See the “Replacing a Residence” section for more information.

F. Second Single Family Dwelling in Former Zone 2 (“Zone 2 Second SFD”)

Until February 22, 2019, land in the ALR was considered to be either in Zone 1 (the panel regions of the South Coast, Island and Okanagan panels) or Zone 2 (the panel regions of the Interior, North and Kootenay panels).

Prior to February 22, 2019, certain activities were permitted in Zone 2 that were not permitted in Zone 1. The term “**Zone 2 Second SFD**” is used in this bulletin to refer to a second single family dwelling in the area of the province that until February 22, 2019 was Zone 2, if the parcel was at least 50 ha in size and if the total area occupied by all residences and other residential structures, roads and service lines, and all land between them, was 4 000 m² or less.

If on February 22, 2019 there was a “**Zone 2 Second SFD**” on Zone 2 land in the ALR, constructed in accordance with all applicable enactments, the Zone 2 Second SFD may continue to be used as a residence in the ALR if:

- there is no other residence on the land other than the principal residence; AND
- the size and siting of the Zone 2 Extra Home is not altered after February 22, 2019 unless
 - permitted on application, OR
 - the total area occupied by all residences and other residential structures, roads and service lines, and all agricultural land between them, as applicable, is not increased by the alteration.

ALR Use Regulation, s. 32

There is no right to replace a residential structure which is permitted due to a grandfathering exception. An application to the Commission for its approval is required to replace such a structure. See the “Replacing a Residence” section for more information.

6. REPLACING A RESIDENCE

The term “construct” includes “to replace a structure, 75% or more of which has been substantially damaged or destroyed”: ALCA, s. 1(1). In order to replace a structure, an owner must abide by the requirements in section 20.1 and, if applicable, section 20.2 of the ALCA.

A. Parcels on which there is only one residence

If an owner is replacing the only residence on a parcel in the ALR, the total floor area of the new residence must not be more than 500 m².

B. Parcels on which there is more than one residence

An application to the Commission, and Commission approval of that application, are required to replace residences which pre-date the ALR (that is, are older than December 21, 1972), residences approved by local government under the former section 18 of the ALCA and its predecessors, residences permitted without application to the Commission under previous versions of the ALCA and regulations, and residences constructed in contravention of local zoning bylaws or the ALCA or regulations.

Whether an application is required to replace a residence that the Commission itself had previously approved on application may depend on the terms of that approval.

7. USE OF RESIDENCE IN ALR

Use of a residence located in the ALR is limited. Generally it may be used only as a residence, subject to limited exceptions:

A. Secondary Suites

The use of land in the ALR for a secondary suite is permitted if there is one suite only, located in the principal residence: ALR Use Regulation, s. 31.

B. Limited Accommodation for Tourists

See the Commission's information bulletin called "Accommodation for Tourists" for more information. Strict conditions must be met for such use.

8. SOIL OR FILL FOR RESIDENTIAL CONSTRUCTION

Removing soil from or placing fill on ALR land is permitted for the construction or maintenance of a principal residence if the total area from which soil is removed or on which fill is placed is 1,000 m² or less. If the affected area is in a floodplain, an additional condition applies: the resulting elevation level must be consistent with applicable local government or first nation government requirements for flood protection: ALR Use Regulation, s. 35.

Removing soil from or placing fill on ALR land in connection with other residential uses (such as for the construction of an additional residence, alteration of a residence or where the area affected by a principal residence is greater than 1,000 m²) is not permitted. An owner of ALR land seeking to remove soil or place fill may submit a notice of intent along with payment of the required fee to the ALC's chief executive officer requesting approval: ALCA, s. 20.3. The landowner may also apply to the Commission for a soil or fill use under s. 25 of the ALCA.

The following types of fill are prohibited on ALR land (ALR Use Regulation, s. 36):

- construction or demolition waste (including masonry rubble, concrete, cement, rebar, drywall and wood waste);
- asphalt;
- glass;
- synthetic polymers;
- treated wood;
- unchipped lumber.

9. INFRASTRUCTURE NECESSARY FOR RESIDENTIAL USE

Subject to any limits and conditions set out in Part 4 of the ALR Use Regulation, the use of agricultural land to construct, maintain or operate the following is permitted:

- (a) a structure, other than a residential structure, that is necessary for a residential use permitted under Part 4. Examples include detached garages;
- (b) a driveway or utility necessary for a residential use permitted under this part: ALR Use Regulation, s. 30.

10. APPLICATIONS FOR NON-ADHERING RESIDENTIAL USE

An owner may apply to the Commission for permission under section 25 of the ALCA for a non-adhering residential use: ALCA, s. 20.1(2). A “**non-adhering residential use**” means “any of the following: (a) an additional residence; (b) a principal residence having a total floor area that is more than 500 m²; (c) a use of a residential structure that contravenes the regulations”: ALCA, s. 1(1).

For more information on making applications to the Commission, please see the Commission’s website, at www.alc.gov.bc.ca/alc/content/applications-and-decisions.

Section 25(1) of the ALCA provides that on receiving a use application the Commission normally may:

- refuse permission for the use applied for,
- grant permission, with or without limits or conditions, for the use applied for, or
- grant permission for an alternative use or subdivision, with or without limits or conditions, as applicable.

With respect to an application for a non-adhering residential use, the Commission (a) must consider the prescribed criteria, if any, (b) must not grant permission for an additional residence unless the additional residence is necessary for a farm use; and (c) must reject the application if required by the regulations to do so: ALCA, s. 25(1.1).

Examples of considerations that the Commission may take into account in determining a use application are found here: www.alc.gov.bc.ca/alc/content/applications-and-decisions/what-the-commission-considers

11. GLOSSARY

The following key definitions are relevant to this information bulletin:

“additional residence” means “a residence on a parcel of agricultural land, other than the principal residence”: ALCA, s. 1(1)

“alter” means “the following: (a) to alter the exterior of a structure so as to increase its size; (b) to move or alter the exterior walls or edges of a structure so as to change its siting”: ALCA, s. 1(1)

“as designed” means as stated or shown in (a) a design, proposal or other plan approved under or accepted in support of an authorization, or (b) a design or plan finalized, before the date this section comes into force, by an architect or engineer or, if none, the designer of the residence, if no authorizations are needed to construct or alter the residence: ALCA, s. 20.2

“authorization” means a permit or other authorization, issued under an enactment, to construct or alter a residence: ALCA, s. 20.2

“construct” means “the following: (a) to build a new structure; (b) to place on land a new structure that is fully or partially pre-fabricated; (c) to replace a structure, 75% or more of which has been substantially damaged or destroyed”: ALCA, s. 1(1)

“farm use” means “an occupation or use of agricultural land for (i) farming land, plants, mushrooms, truffles or animals, (ii) a farm operation as defined in the *Farm Practices Protection (Right to Farm) Act*, or (iii) a purpose designated as a farm use by regulation”, but “farm use” does “not include a residential use or a soil or fill use”: ALCA, s. 1(1)

“fill” means “any material brought onto agricultural land other than materials exempted by regulation”: ALCA, s. 1(1)

“non-adhering residential use” means “any of the following: (a) an additional residence; (b) a principal residence having a total floor area that is more than 500 m²; (c) a use of a residential structure that contravenes the regulations”: ALCA, s. 1(1)

“non-farm use” means “a use of agricultural land other than a farm use, a residential use or a soil or fill use”: ALCA, s. 1(1)

“pre-existing residential structure” means “a residential structure that exists on agricultural land on the date this section comes into force [February 22, 2019], and (a) is an additional residence, (b) is a principal residence having a total floor area of more than 500 m², or (c) is of a size or is sited in contravention of a regulation”: ALCA, s. 20.2

“prescribed residential structure” is either a “structure” that, or a “vehicle” that, is “used, whether permanently or temporarily, to provide or in connection with providing accommodation as described in [Part 4 of the ALR Use Regulation]”: ALR Use Regulation, s. 29

“principal residence” means “the residence permitted under section 20.1(1)(a)”: ALCA, s. 1(1)

“residential structure” means “a structure used, during all or part of the year and whether fully or partially, as (a) a residence, (b) if prescribed, accommodation, or (c) if prescribed, in relation to a residence or accommodation”: ALCA, s. 1(1)

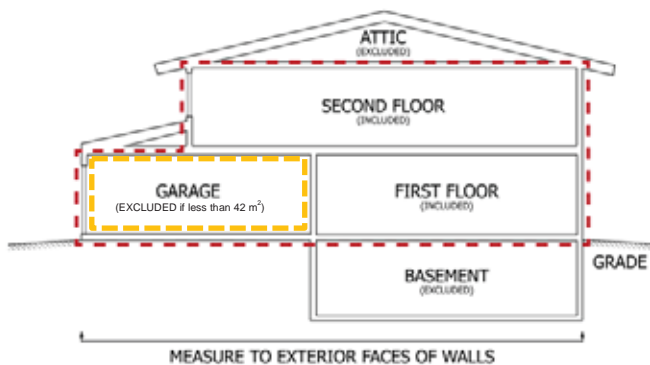
“residential use” means “a use of agricultural land for a residential structure” but “does not include a farm use or a soil or fill use”: ALCA, s. 1(1)

“soil or fill use” means “the removal of soil from, or the placement of fill on, agricultural land” but “does not include a farm use or a residential use”: ALCA, s. 1(1)

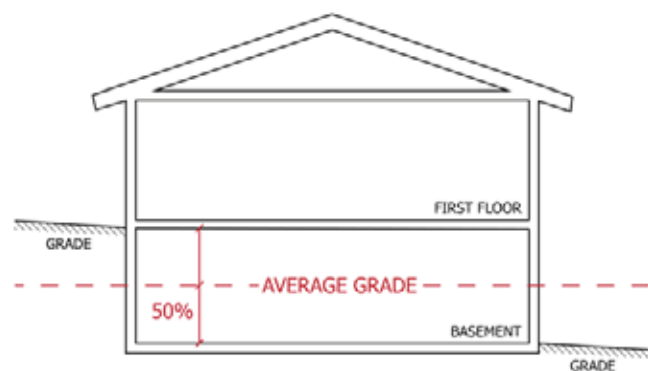
“total floor area” means, for purposes of the ALCA and ALR Use Regulation and pursuant to Commission Resolution No. 056N-2019, the total area of all floors measured to the outer surface of the exterior walls, including corridors, hallways, landings, foyers, staircases, stairwells, enclosed balconies, enclosed porches or verandas, and excluding:

- (a) attached garages and unenclosed carports to a cumulative maximum of 42 square metres;
- (b) basements that do not end beyond the outer surface of the exterior wall of the first floor, with basement meaning that portion of any floor area having more than one-half its vertical height below the average finished grade at the perimeter of a building;
- (c) attics, with attic meaning the unfinished space between the roof and the ceiling of the top storey of a building or between a partial wall and a sloping roof.

Total Floor Area Illustration



Basement Illustration



“unfinished pre-existing residence” see the definition at s. 20.2 of the ALCA and in the body of the information bulletin above

“use or subdivision application” means “an application for permission made under any of the following: (a) section 20 (2) for a non-farm use; (b) section 20.1 (2) (a) for a non-adhering residential use; (c) section 20.3 (5) for a soil or fill use; (d) section 21 (2) for subdivision”: ALCA, s. 1(1)

“Zone 2 Second SFD” means a second single family dwelling in the area of the province that until February 22, 2019 was Zone 2, but only if the parcel was at least 50 ha in size and if the total area occupied by all residences and other residential structures, roads and service lines, and all land between them, was 4 000 m² or less

REFERENCE PLAN OF PART OF LOT 45 SECTION 35
TOWNSHIP 26 ODYD PLAN 425
PURSUANT TO SECTION 99(1)(e) OF THE LAND TITLE ACT
FOR COVENANT PURPOSES
BCGS 82E.094

PLAN EPP90492

ATTACHMENT **C**

This forms part of application

A19-0009

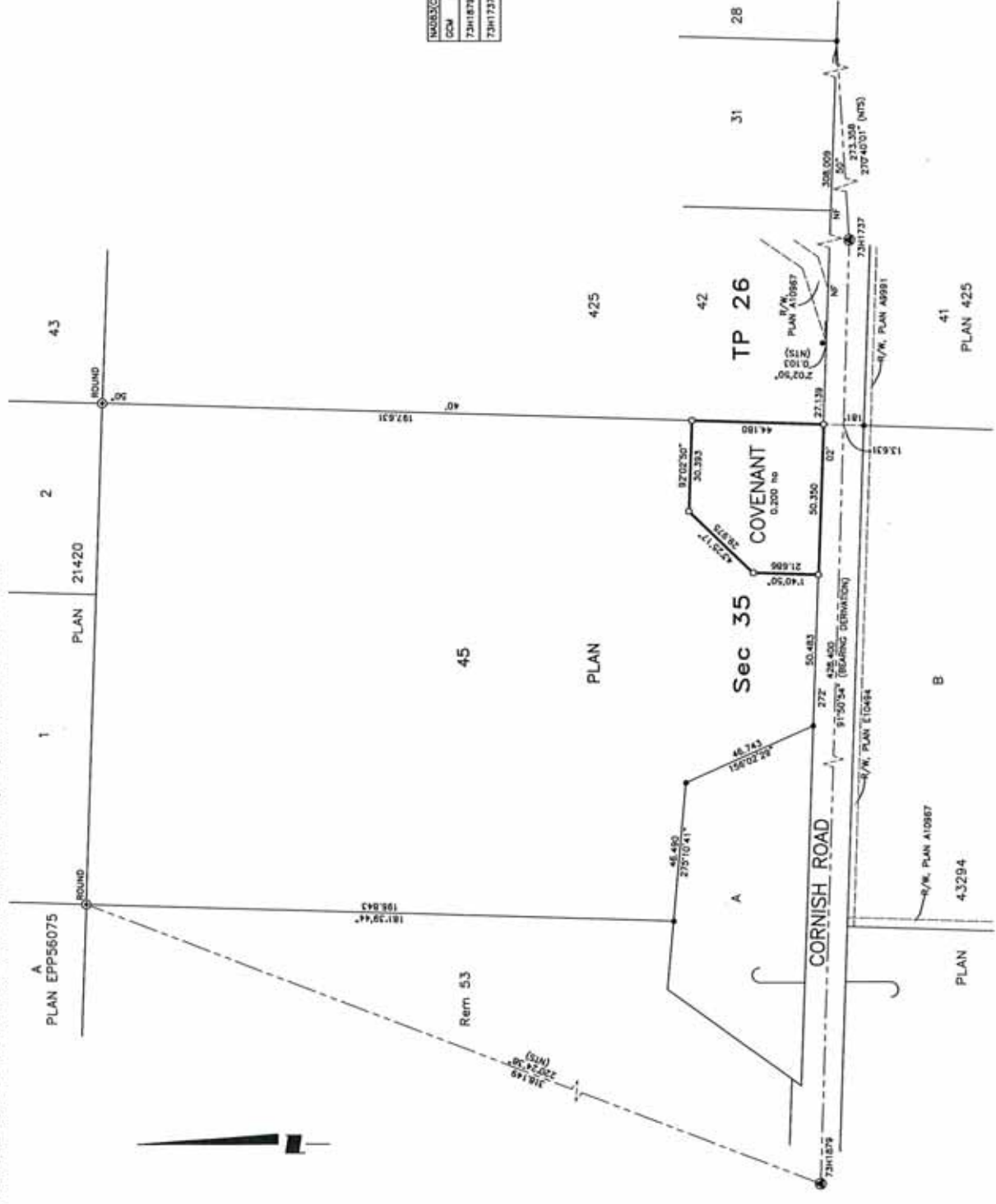
Planner
Initials

AT



THE INTENDED PLOT SIZE OF THIS PLAN IS 560mm IN WIDTH BY 432mm IN HEIGHT (C SIZE) WHEN PLOTTED AT A SCALE OF 1:1000

15 0 10 25 50 100 METRES



MONUM(C/S)S	4.0.D.B.C.1 UTM ZONE 11 COORDINATES	COMBINED POSITIONAL ACCURACY	ESTIMATED HORIZONTAL POSITIONAL ACCURACY
CCM	NORTHING	EASTING	SCALE FACTOR
73H1879	5531759.892	328851.690	0.9998999
73H1737	5531746.075	329079.924	0.9998977

LEGEND

INTEGRATED SURVEY AREA NO. 4, CITY OF KELLOWNA,
M4983 (CSRS) 4.0.D.B.C.1
GRID BEARINGS ARE DERIVED GNSS FROM OBSERVATIONS
PERFORMED ON GEODETIC CONTROL MONUMENTS 73H1879 AND
73H1737.

THE UTM COORDINATES AND ESTIMATED HORIZONTAL
POSITIONAL ACCURACY ARE BASED ON THE
PUBLISHED COORDINATES AND STANDARD DEVIATIONS FOR
GEODETIC CONTROL MONUMENTS 73H1879 AND 73H1737.

THIS PLAN SHOWS HORIZONTAL GROUND-LEVEL
DISTANCES UNLESS OTHERWISE SPECIFIED. TO COMPUTE
GRID DISTANCES, MULTIPLY GROUND-LEVEL DISTANCES
BY THE AVERAGE COMBINED FACTOR OF 0.9998988
FOR THE MONUMENTS 73H1879 AND 73H1737.

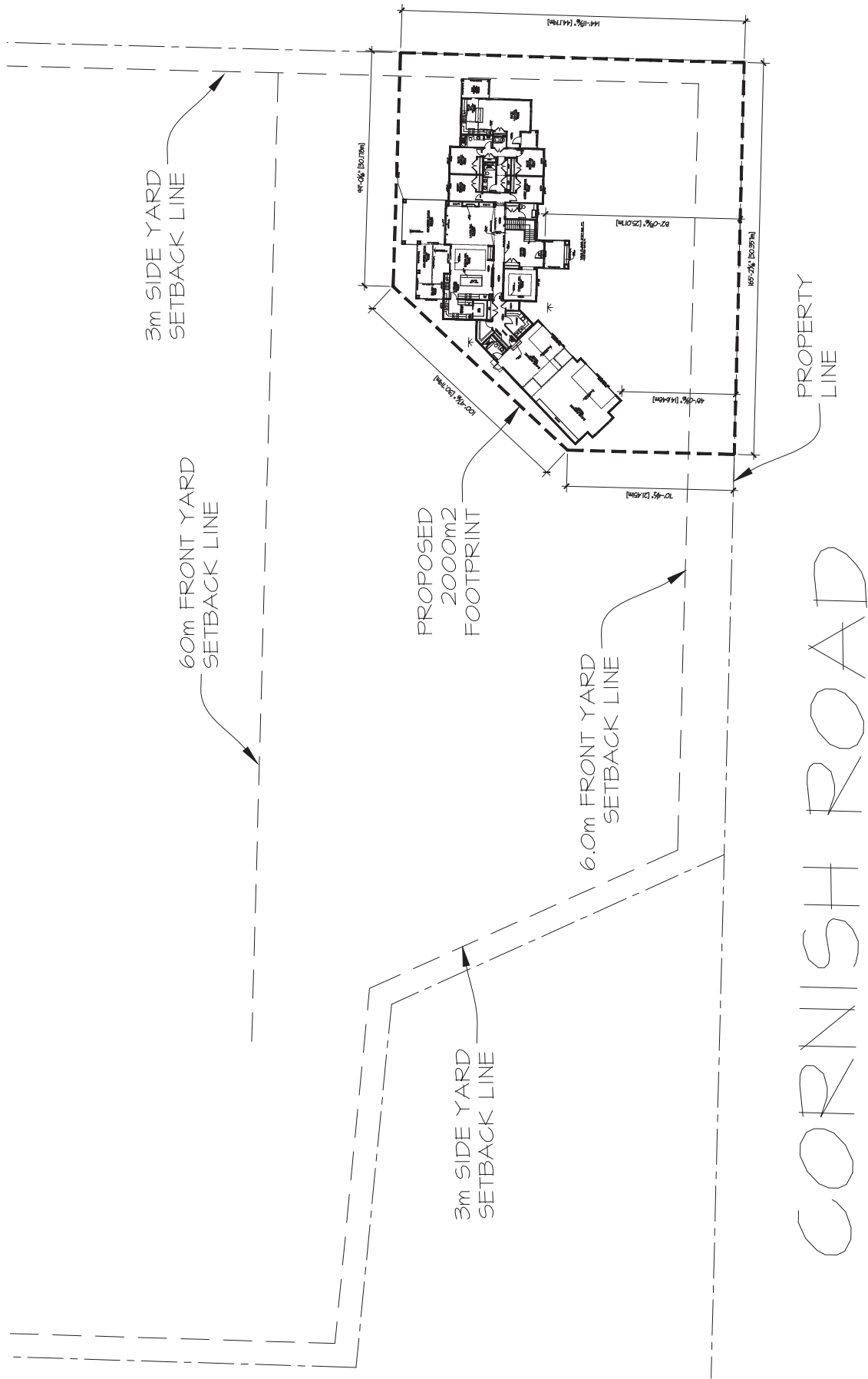
- ⊙ DENOTES NON-STANDARD POST FOUND
 - ⊙ DENOTES CONTROL MONUMENT FOUND
 - DENOTES STANDARD IRON POST FOUND
 - DENOTES STANDARD IRON POST SET
 - NTS DENOTES NOT TO SCALE
- THIS PLAN LIES WITHIN THE REGIONAL DISTRICT OF
CENTRAL OKANAGAN.

THE FIELD SURVEY REPRESENTED BY THIS PLAN WAS
COMPLETED ON THE 15TH DAY OF FEBRUARY, 2019
COURT FERGUSON, SCLS 838

Ferguson Land Surveying & Geomatics Ltd.
B.C. AND CANADA LAND SURVEYORS
404-1830 HANCOCK STREET, KELLOWNA, B.C.
TELEPHONE (250) 763-3119 FAX (250) 763-0321

JOB No 21773-COV

S:\Survey\425_19_2009\425\73H1879\21773-COV.DWG
DWG BY: A
PLP/D: SCL FILE



For Immediate Release
2019AGRI0018-000261
Feb. 23, 2019

Legislation to protect farmland now in force

VICTORIA – Regulations that strengthen B.C.'s Agricultural Land Reserve (ALR) came into force under Bill 52 on Feb. 22, 2019, enhancing food security and encouraging farming in the ALR.

"I'm very happy to see this law come into full force and effect," said Lana Popham, Minister of Agriculture. "This new law will encourage farming and better protect farmland by banning mega-mansions, stopping the illegal dumping of waste on farmland and reinstating the one-zone system. It's a great step in our effort to revitalize the Agricultural Land Reserve so that British Columbians can count on a safe, secure supply of locally grown food on their tables for years to come."

The Agricultural Land Commission Amendment Act, 2018 provides three key changes, including:

- Restricting the removal of soil and increased penalties for the dumping of construction debris and other harmful fill in the ALR.
- Directly addressing mega-mansions and speculation in the ALR by limiting primary residence size on ALR lands and empowering the Agricultural Land Commission (ALC) to approve additional residences if they are for farm use.
- Reunifying the ALR as a single zone, ensuring consistent rules with strong protections for all provincial ALR land.

"At the same time, we're supporting larger farming families by ensuring that those who need extra living space to support their farming operations have a path forward at the ALC to build a larger home," said Popham. "Multigenerational farming families are the backbone of agriculture throughout B.C."

Bill 52 was introduced on Nov. 5, 2018, and received royal assent three weeks later. It required a regulation to bring the law into force. The legislative changes make it clear that British Columbia's ALR is for farming and ranching, not for building mega-mansions and dumping construction waste.

Established in 1973, the ALR is administered by the ALC, an independent tribunal mandated to preserve agricultural land and encourage farming on agricultural land. The ALR includes over 4.7 million hectares of B.C. that are preserved for agricultural use — less than 5% of B.C.'s total land base.

Quick Facts:

- Farming families who need the extra space to farm have a path forward at the ALC to build a larger home to support their farming operations.
- To ensure fairness, people who have all their permits and authorizations in place on Feb.

22, 2019, when the regulations became law, will be grandfathered under the old system provided they begin substantial construction by Nov. 5, 2019.

- Under Bill 52, dumping construction waste and other damaging substances on farmland is prohibited, with strong penalties and new tools for enforcement.
- New offences for illegal fill and soil removal have been created under the new act, with maximum penalties of \$1 million or six months imprisonment for a first offence.

Learn More:

For more information, visit the Agricultural Land Commission's website:

<https://www.alc.gov.bc.ca/alc/content/contact-us>

Contact:

Dave Townsend
Government Communications and Public
Engagement
Ministry of Agriculture
250 356-7098
250 889-5945 (cell)

Connect with the Province of B.C. at: news.gov.bc.ca/connect

ATTACHMENT E

This forms part of application

A19-0009

Planner
Initials AT



June 10, 2019

File: A19-0009

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

Re: A19-0009 ALC Non-Adhering Residential Use Application 298 Cornish Road

To the City of Kelowna,

Thank you for providing the B.C. Ministry of Agriculture the opportunity to comment on the ALC Non-Adhering Residential Use application for a principal residence more than 500m² located at 298 Cornish Road. I have reviewed the documents you have provided and can provide the following comments:

- The Ministry's [Guide for Bylaw Development in Farming Areas](#) (Bylaw Guide) states that "Three options have been identified for addressing residential impacts. These are 1) regulating the siting of residential uses, 2) restricting the size of the farm residential footprint, and 3) restricting the size of the farm residence." The Bylaw Guide also reads, "While limiting the size of the residence does have a significant benefit in reducing the impact on farmland prices, it is considered to be of lesser importance compared to the siting of residential uses and the size of the farm residential footprint." Given this, while it appears the proposed development meets both the 2000m² maximum farm residential footprint and maximum road setbacks (siting) bylaw standards, it does not meet the suggested 500m² house size maximum (p.15-17).
- The Ministry's 2011 '[Regulating the Siting and Size of Residential Uses In the ALR](#)' Discussion Paper (which forms the background document for the Minister's residential size and siting bylaw standard) states the issue clearly; "In addition to alienating farmland, large and expensive residences and accessory farm residential facilities can significantly increase the value of the property making it less affordable for farmers and less likely to be farmed." (p.12)
- With this in mind, while recognizing its dated and regionally different circumstances, the same document also references 2011 Metro Vancouver research data comparing a 'medium' sized house (5000 sq.ft.) versus a 'large' sized house (7,500 sq.ft.). Both are on 10 acre parcels and show an average 'value per acre' increased difference, (including the house) of \$175,000 versus \$212,500. (p.12). While recent Okanagan specific numbers are not known, Farm Credit Canada's 2018 [Farmland Values Report](#) identifies the Okanagan as the only region in B.C. currently with higher value per acre numbers (\$97,903 versus \$94,657) compared to the South Coast (p.7).

If you have any questions please contact me directly at christina.forbes@gov.bc.ca or 250-861-7201.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Christina Forbes', with a large, sweeping flourish extending to the right.

Christina Forbes, P.Ag

Regional Agrologist

B.C. Ministry of Agriculture – Kelowna

Office: (250) 861-7201

E-mail: christina.forbes@gov.bc.ca

Email copy: Sara Huber, ALC Regional Planner, Sara.Huber@gov.bc.ca

COMMITTEE REPORT



Date: August 8, 2019

RIM No. 1210-21

To: Agricultural Advisory Committee (AAC)

From: Development Planning Department (AJ)

Application: A19-0011 **Owner:** Sukhjit Singh Sidhu and
Bhupinder Kaur Sidhu

Address: 2568 KLO Road **Applicant:** Benson Law LLP

Subject: Application to the ALC for Non-Adhering Residential Use – Additional Residence for Farm Use

1.0 Purpose

The applicant is requesting permission from the Agricultural Land Commission to use an existing secondary dwelling on the subject property as temporary farm worker housing to accommodate six (6) temporary farm workers.

2.0 Proposal

2.1 Background

The proposal aims to legitimize the use of an existing dwelling on the subject property as temporary farm worker housing (TFWH). This proposal requires two approvals:

1. Non-Adhering Residential Use Permit (A19-0011) – Owners of land within the Agricultural Land Reserve (ALR) are required to obtain approval from the Agricultural Land Commission for dwellings to be used for TFWH.
2. Farm Worker Housing Permit (FH18-0002) – A Farm Worker Housing permit must be approved by Kelowna City Council to confirm that the proposal meets City of Kelowna regulations related to TFWH.

Sukhjit and Bhupinder Sidhu (the Sidhus) purchased the subject property in 2016, and at that time the subject property had three dwellings on it: dwelling 1 built in 2001, dwelling 2 built in 1979, and dwelling 3 built in 1970 (Map 1). There is also a large shed for farm use on the property east of dwelling 3. Historically, dwelling 2 was permitted to be built on the condition that one dwelling would be used for farm help or family only as per an affidavit signed in 1979 by a previous owner. Affidavits do not run with the land, and therefore the affidavit that was signed in 1979 is no longer applicable to this property. In 2001, dwelling 1 was permitted to be built on the condition that one dwelling be demolished or decommissioned. Neither dwelling 2 nor dwelling 3 was decommissioned as per the conditions outlined in these past building permits. Overall, the property has a history of Bylaw investigations and non-conformance.

Development Planning staff and the Sidhus were in contact regarding the subject property prior to the Sidhu's purchase of the property. The Sidhus were made aware that only the newest dwelling (dwelling 1) is permitted, and that the other two dwellings on the property are unpermitted, non-conforming. After meeting with Development Planning staff to discuss options for bringing the subject property into compliance with City Bylaws, the Sidhus applied for a farm help permit for dwelling 2. The decommissioning of dwelling 3 was a requirement of this farm help permit application and was completed in 2018 as per BP 59188. As per Agricultural Land Commission (ALC) regulations now in place, the TFWH proposed in this application is considered a non-adhering residential use (additional residence for farm use) and therefore must seek ALC approval.

Map 1: Subject Property Overview



2.2 Site Context

The subject property is 3.86 ha (9.57 acres) in size and is located between Hall Road and East Kelowna Road in the Southeast City Sector of Kelowna. As per Maps 2 – 4 below, the subject property is zoned A1 – Agriculture, is located within the Agricultural Land Reserve (ALR), is located outside of the Permanent Growth Boundary, and has a Future Land Use Designation of REP – Resource Protection Area. The area surrounding the subject property is predominantly agricultural, with single dwelling housing and outdoor participant recreation services also in proximity. Adjacent land uses are listed in Table 1.

Table 1: Zoning and Land Use of Adjacent Properties

Direction	Zoning	ALR	OCP Designation	Land Use
North	A1	Yes	REP	Agriculture, Single Dwelling Housing
East	A1	Yes	REP	Agriculture
South	A1, P3LP	Yes	REC, REP	Participant Recreation Services, Outdoor
West	RR3	No	REP, S2RES	Single Dwelling Housing

3.0 Development Planning

This application is in general accordance with municipal and provincial guidelines as indicated in Attachment A. As per Section 9.13.2 of the Zoning Bylaw No. 8000, the TFWH footprint may not exceed 0.20 ha (2000 m²) for structure(s) to accommodate a maximum of forty temporary farmworkers. The footprint of dwelling 2 is approximately 257 m². Additionally, this application proposes TFWH on a parcel

where agriculture is the principal use, aligning with the City’s Farm Help Housing Policy. The application also meets OCP Farm Protection DP Guideline 1.8 which states that existing dwellings within the farm unit should be used for TFWH rather than building new housing. The buildings and structures on the subject property also are located within 50m of KLO Road in a somewhat contiguous layout with some small pockets of vegetation in between the structures.

As per Table 2, the total farm unit area¹ owned and/or operated by the Sidhus is approximately 31 hectares, meeting the minimum farm unit size for TFWH which is 4 hectares. One property within the farm unit, located at 1605 Geen Road, was previously approved for TFWH. The Sidhus have demonstrated the need for temporary farm workers by completing a Labour Market Impact Assessment through the federal government permitting the Sidhus to hire six temporary foreign workers through the agriculture stream. Employment contracts for the six temporary foreign workers have been provided, meeting City of Kelowna policies for Farm Help Housing and requirements outlined in section 9.13.1 (c) of the Zoning Bylaw.

Table 2: Farm Unit Parcels

Address	Farmed Hectares	Summary	City Sector
1605 Geen Rd	3.88	Sidhus are joint owners; TFWH granted (FH09-0003)	Belgo-Black Mountain
1865 Belgo Rd	4.17	Sidhus are joint owners	Belgo-Black Mountain
2568 KLO Rd	2.55	Subject property	Southeast Kelowna
1591 Saucier Rd	3.40	Sidhus manage farming as per an orchard agreement expiring in 2019	Southeast Kelowna – covenant restricting TFWH required
3288 Reid Rd	6.68	Sidhus manage farming as per an orchard agreement expiring in 2035	Southeast Kelowna – covenant restricting TFWH required
4201 Spiers Rd	3.12	Sidhus manage farming as per an orchard agreement expiring in 2022	Southeast Kelowna – covenant restricting TFWH required
2190 Gulley Rd	3.52	Sidhus manage farming as per an orchard agreement expiring in 2025	Southeast Kelowna – covenant restricting TFWH required
1390 Geen Rd	2.99	Sidhus manage farming as per an orchard agreement expiring in 2033	Belgo-Black Mountain
1601 Saucier Rd	1.00	Sidhus manage farming as per an orchard agreement expiring in 2019	Southeast Kelowna – covenant restricting TFWH required
	Total: 31.31 ha		

As per Section 9.13.3 of Zoning Bylaw, structure(s) to accommodate a maximum of 40 temporary farm workers are permitted per city sector for parcels up to eight hectares. Should all approvals necessary for this proposal be obtained, the number of temporary foreign workers able to be housed on other parcels of the farm unit also within the Southeast Kelowna city sector would be limited through the registration of restrictive covenants. Additionally, the applicants would be required to file a statutory declaration with the City annually stating that the building will be used only for TFWH for 10 months during the year (approximately February – November), which is compliant with section 9.13.1(f) of the Zoning Bylaw.

Report prepared by: Arlene Janousek, Planner

Reviewed/Approved for Inclusion by: Dean Strachan, Suburban and Rural Planning Manager

Attachments:

Attachment A: Policies

Attachment B: Site Plan

¹ One or more contiguous or non-contiguous parcels, that may be owned, rented or leased, within City limits, which forms and is managed as a single farm.

CURRENT POLICIES

Kelowna Official Community Plan

Chapter 5: Development Process

ATTACHMENT A

This forms part of application
A19-0011

Planner Initials **AJ**

City of **Kelowna**
DEVELOPMENT PLANNING



Policy 5.33.1 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 5.34.2 Farm Help Housing. Accommodation for farm help on the same agricultural parcel will be considered only where:

- Agriculture is the principal use on the parcel, and
- The applicant demonstrates that the additional housing is necessary to accommodate farm employee(s) whose residence on the farm property is considered critical to the overall operation of the farm. The primary consideration is whether the scale of the farm operation is large enough that permanent help is deemed necessary.

Policy 5.34.3 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.

Chapter 15: Farm Protection Development Permit Guidelines

Guideline 1.2. On agricultural lands, where appropriate, locate all buildings and structures, including farm help housing and farm retail sales, within a contiguous area (i.e. homeplate). Exceptions may be permitted where the buildings or structures are for farm use only.

Guideline 1.8. Design temporary farm working housing such that:

- Temporary farm worker housing should use all existing dwellings within the farm unit, prior to building new temporary farm worker housing, unless the existing dwellings are used for a use consistent with the Agriculture Land Commission Act. Alternatively, the existing dwellings on the farm unit must be removed, decommissioned to an approved use or demolished including decommissioning the existing septic system, prior to the authorization of a new temporary farm worker housing structure.
- Temporary farm worker housing footprint should be contiguous with the residential footprint (i.e. homeplate) and / or within 50 metres of the road and / or located to maximize agricultural potential and limit negative impacts on the farm parcel.
- Temporary farm worker housing should have a minimum 3-metre-wide vegetated buffer for screening to adjacent property lines and between the temporary farm worker housing and active farming areas.

2568 K.L.O Road

Main Dwelling (Dwelling 1)

nd
Dwelling 2

^{3rd}
Dwelling 3

Shed for Farm Use



ATTACHMENT B

This forms part of application # A19-0011

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