

Agricultural Advisory Committee

AGENDA



Thursday, February 13, 2020
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 January 16, 2020.

3. Applications for Consideration

3.1 Rose Rd 3455, A19-0019 & FH19-0007 - Nirmal & Rimplejeet Dhaliwal

5 - 14

To consider a non-adhering residential use permit to allow temporary farm help housing to accommodate 18 seasonal farm workers

3.2 Hartman Rd 620-622, A19-0021 - Beatrice Elizabeth Van Den Eerenbeemt

15 - 28

To consider a two lot subdivision for the purpose of a homesite severance.

4. ALC Decisions - Update

5. New Business

6. Next Meeting

March 12, 2020

7. Termination of Meeting



Agricultural Advisory Committee Minutes

Date: Thursday, January 16, 2020
 Time: 6:00 pm
 Location: Council Chamber
 City Hall, 1435 Water Street

Committee Members Present: Derek Brown (Alternate), Keith Duhaime, Yvonne Herbison (Vice Chair), Domenic Rampone, Pete Spencer (Alternate)

Committee Members Absent: John Janmatt (Chair), Keith Duhaime, Avi Gill, Aura Rose, Jeff Ricketts, Jill Worboys

Staff Present: Planner Specialist, Alex Kondor; Planner, Hailey Rilkoﬀ; Legislative Coordinator (Confidential), Clint McKenzie

1. Call to Order

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

Opening remarks by the Chair regarding conduct of the meeting were read.

2. Applications for Consideration

2.1 4060 Todd Road, A19-0022 - Application to the ALC for a Non-Adhering Residential Use - Brian Sherie Fehr

Staff presented a PowerPoint presentation outlining the details of the application and responded to questions from the Committee.

Brian Fehr, Todd Road, Applicant:

- Responded to questions from the Committee.
- When the property was purchased in 2007 by the applicant it was not farmable.
- 5 acres of water rights.
- spoke to road access.
- Confirmed there is no longer a landscaping business onsite. Storage of equipment for a highway safety contracting business now is predominately in the winter when contracts are dormant.

- The primary source of power for the ag. buildings onsite will continue to be the decommissioned house.

Staff responded to questions from the Committee.

Moved by Pete Spence/Seconded by Domenic Rampone

THAT the ALC application be supported to keep the existing building until occupancy for the proposed building is ready and forwarded to the ALC for consideration.

Carried

ANEDOTAL COMMENTS

The Agricultural Advisory Committee has the following concerns:

- That the applicant adheres to the 2000 sq. m. site plan requirements.
- That the use of the buildings be related to agriculture and not other uses.
- That the agriculture on the site is currently not well developed.

3. Minutes

Moved By Domenic Rampone/Seconded By Yvonne Herbison

THAT the Minutes of the December 12, 2019 Agricultural Advisory Committee meeting be adopted.

Carried

4. ALC Decisions - Update

There were no updates.

5. New Business

Staff informed the Committee that a joint enforcement committee is now in place with the Agricultural Land Commission and City staff that meets monthly.

6. Termination of Meeting

The Chair declared the meeting terminated at 6:46 p.m.

Chair

COMMITTEE REPORT



Date: February 13, 2020

RIM No. 1210-21

To: Agricultural Advisory Committee (AAC)

From: Development Planning Department (TC)

Application: A19-0019 and FH19-0007 **Owner:** Nirmal and Rimplejeet Dhaliwal

Address: 3455 Rose Road **Applicant:** Nirmal and Rimplejeet Dhaliwal

Subject: Application to the ALC for Non-Adhering Residential Use Permit for Temporary Farm Worker Housing

1.0 Purpose

To consider a non-adhering residential use permit application to allow temporary farm help housing to accommodate 18 seasonal farm workers on the property located at 3455 Rose Road.

2.0 Proposal

2.1 Background

The subject property is a 26.2-acre (10.6ha) property, with 11 acres of apples, 8 acres of cherries, 4 acres of peaches and 1.5 acres of prunes. The property is located on Rose Road, within the Southeast Kelowna Sector. The property is accessible from Rose Road, and borders Pooley Road in the North.

The property is owned and farmed by the applicants. The applicant owns and operates four additional parcels, and leases another 10-acre parcel, for a total of 82 acres of farm land. There is room to house 18 farm workers at the applicants 3455 Rose Road property.

There are three accessory structures on Western portion of the property constructed without permits: an ATCO Trailer, a mobile home, and one suite located in an accessory building used for storage. These structures all have been previously used to house temporary workers under the Seasonal Agricultural Workers Program (SAWP). These structures are near the principal building to limit the residential footprint.

2.2 Project Description

The proposal is to bring three existing dwellings: an ATCO trailer, a mobile home and a suite into conformance. These three units will house up to 18 seasonal farm workers.

The following approvals are required for this proposal:

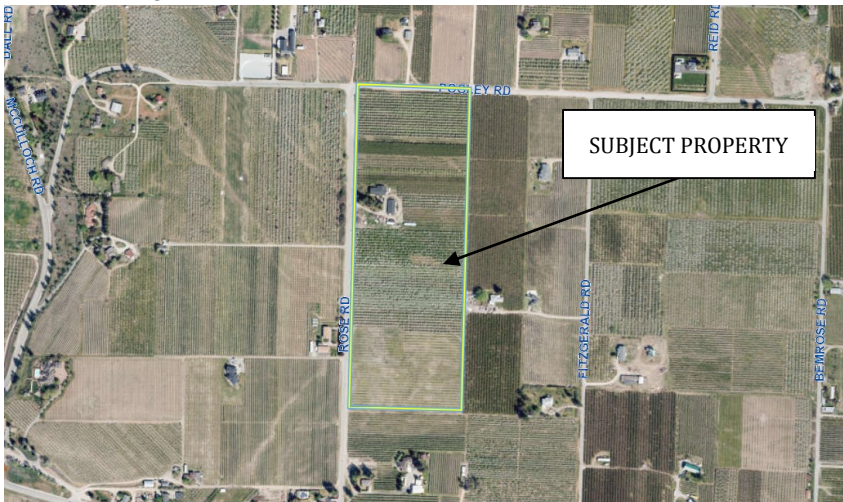
1. Non-Adhering Residential Use Permit (A19-0019) – Owners within the Agricultural Land Reserve (ALR) are required to obtain approval from the Agricultural Land Commission (ALC) for dwellings used for Temporary Farm Help.
2. Farm Worker Housing Permit (FH19-0007) – A Temporary Farm Worker Housing (TFWH) permit must be approved by Council confirming the proposal meets the City of Kelowna regulations related to temporary farm worker housing.

The 18 seasonal farm workers will be in three different sleeping areas. The first is the mobile home, which is 79.7m² in size and has three bedrooms with a communal kitchen, bathroom and living space. The second unit is the ATCO trailer unit, which is 71.3m² in size, with two bedrooms and a communal kitchen, bathroom and living space. The final sleeping area is a suite connected to the storage and cooler area. This space is 72.2m² and has two bedrooms with a communal kitchen and bathroom. These three sleeping units are within the residential footprint, limiting the impacts of the orchard and they are located South of the primary dwelling. The attached site plan shows the layout of the accessory buildings and temporary farm worker housing.

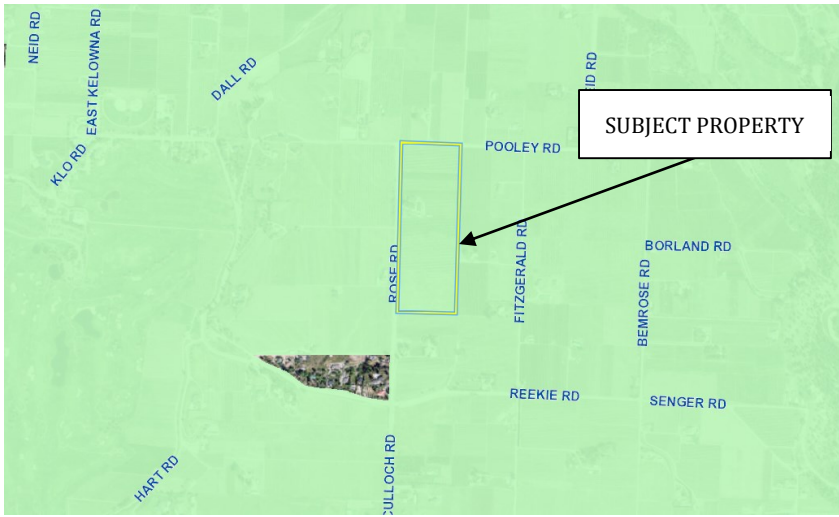
2.3 Site Context

The subject property is located a corner lot on Rose Road and Pooley Road in Southeast Kelowna. The property is approximately 300m from the four way stop at the intersection of McCulloch Road, Reekie Road and Rose Road. The parcel is accessible from Rose Road and is a rectangular shape. The property is zoned A1 – Agriculture 1 and is designated Resource Protection Area (REP) in the City's Official Community Plan (OCP). The property is located within the Agricultural Land Reserve (ALR).

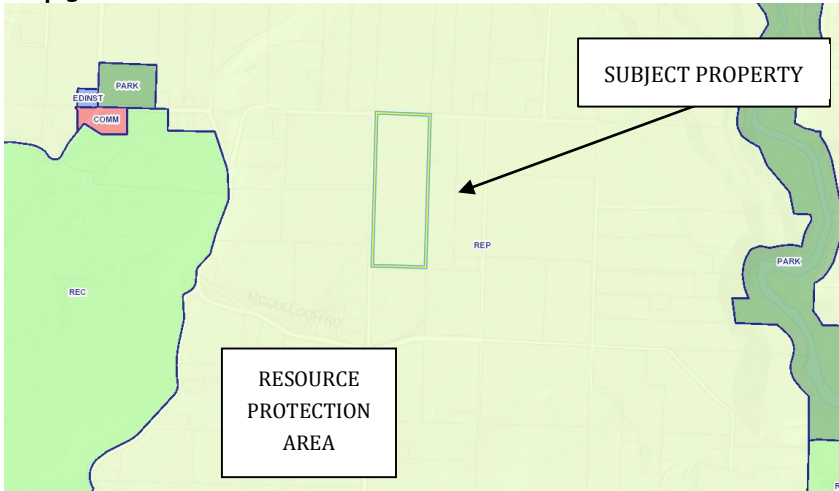
Map 1 – Subject Property: 3455 Rose Road



Map 2 – Agricultural Land Reserve



Map 3 – Future Land Use



2.4 Neighbourhood Context

The subject property lies within the Southeast Kelowna City sector. The surrounding area is predominantly agricultural lands, within the Agricultural Land Reserve. There are a small number of rural residential properties, as well as Harvest and Orchard Greens Golf Courses to the West.

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

Table 1: Zoning and Land Use of Adjacent Property

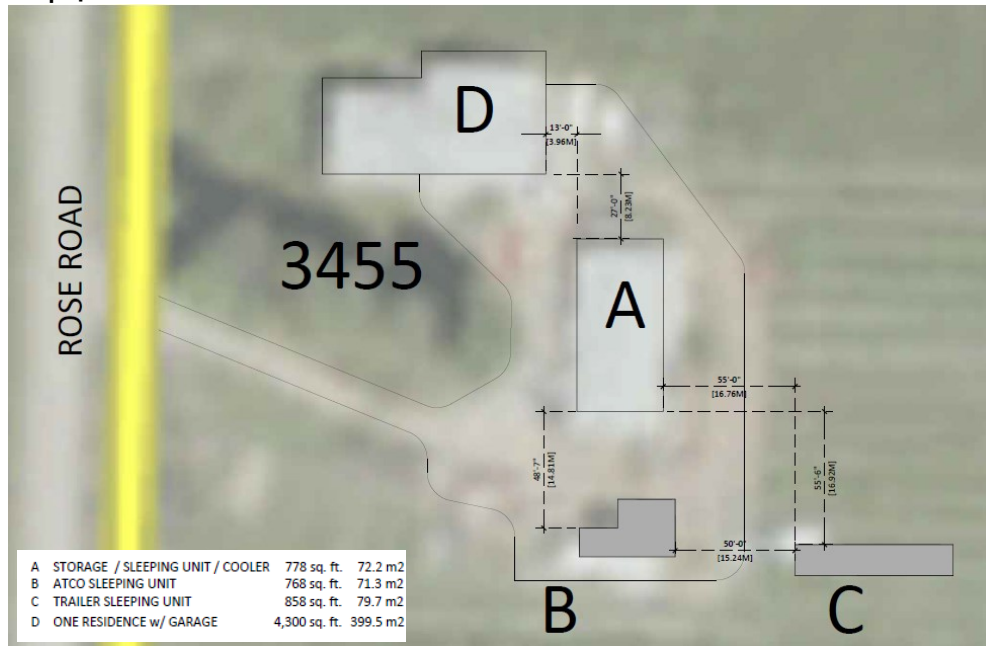
Direction	Zoning	ALR	Land Use
North	A1 – Agriculture 1	Yes	Agriculture
South	A1 – Agriculture 1	Yes	Agriculture
East	A1 – Agriculture 1	Yes	Agriculture
West	A1 – Agriculture 1	Yes	Agriculture

2.5 Agricultural Land Use

The subject property has approximately 24.5 acres of land in use for agricultural activities including:

- 11 acres of apples
- 8 acres of cherries
- 4 acres of peaches
- 1.5 acres of prunes

Map 4 – Site Plan



3.0 Development Planning

The proposed temporary farm worker accommodation meets the regulations of the Zoning Bylaw. The proposal is also consistent with the Ministry of Agriculture standards for temporary farm worker accommodation.

The City of Kelowna Official Community Plan (OCP) policy on Farm Help Housing states accommodation for farm help on the same agricultural parcel will be considered only where:

- Agriculture is the principal use on the parcel;
- 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; and,
- TFWH (e.g. bunkhouse accommodation on non-permanent foundations) is the preferred solution where the need for farm worker housing is justified.

The Farm Protection Development Permit Guidelines state to design TFWH such that:

- TFWH 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.

- TFWH 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. A19-0003 and FH19-0012
- TFWH should have a minimum 3.0-metre-wide vegetated buffer for screening to adjacent property lines and between the TFWH and active farming areas.

The City of Kelowna Agriculture Plan recommends to:

- Allow TFWH, as permitted by City of Kelowna Bylaw. TFWH, as permitted by the City of Kelowna, should be allowed. The TFWH footprint means the portion of a lot that includes all structures, driveways and parking areas associated with the temporary farm worker housing, including but not limited to structures.

In keeping with the Ministry of Agriculture's Guide to Bylaw Development in Farming Areas and the City's policy for Temporary Farm Worker Housing, Community Planning Staff recommend the registration of Section 219 Restrictive Covenants which state:

- The TFWH shall be used for temporary farm workers only;
- The owner will remove the TFWH if the farm operation changes such that it is no longer required;
- The dwellings will only be used for farm workers for a maximum of eight (8) months of the year;
- The maximum number of accommodations permitted on this farm unit within this City sector is 60 workers; and,
- The TFWH building footprint is a maximum of 0.3ha.

The existing housing meets the needs of the farming operation and is in an area of the property that minimizes the residential impact to the active and future agriculture.

Report prepared by: Tyler Caswell, Planner I

Reviewed / Approved for Inclusion by: Alex Kondor, Acting Approving Officer/Agricultural Planning Manager

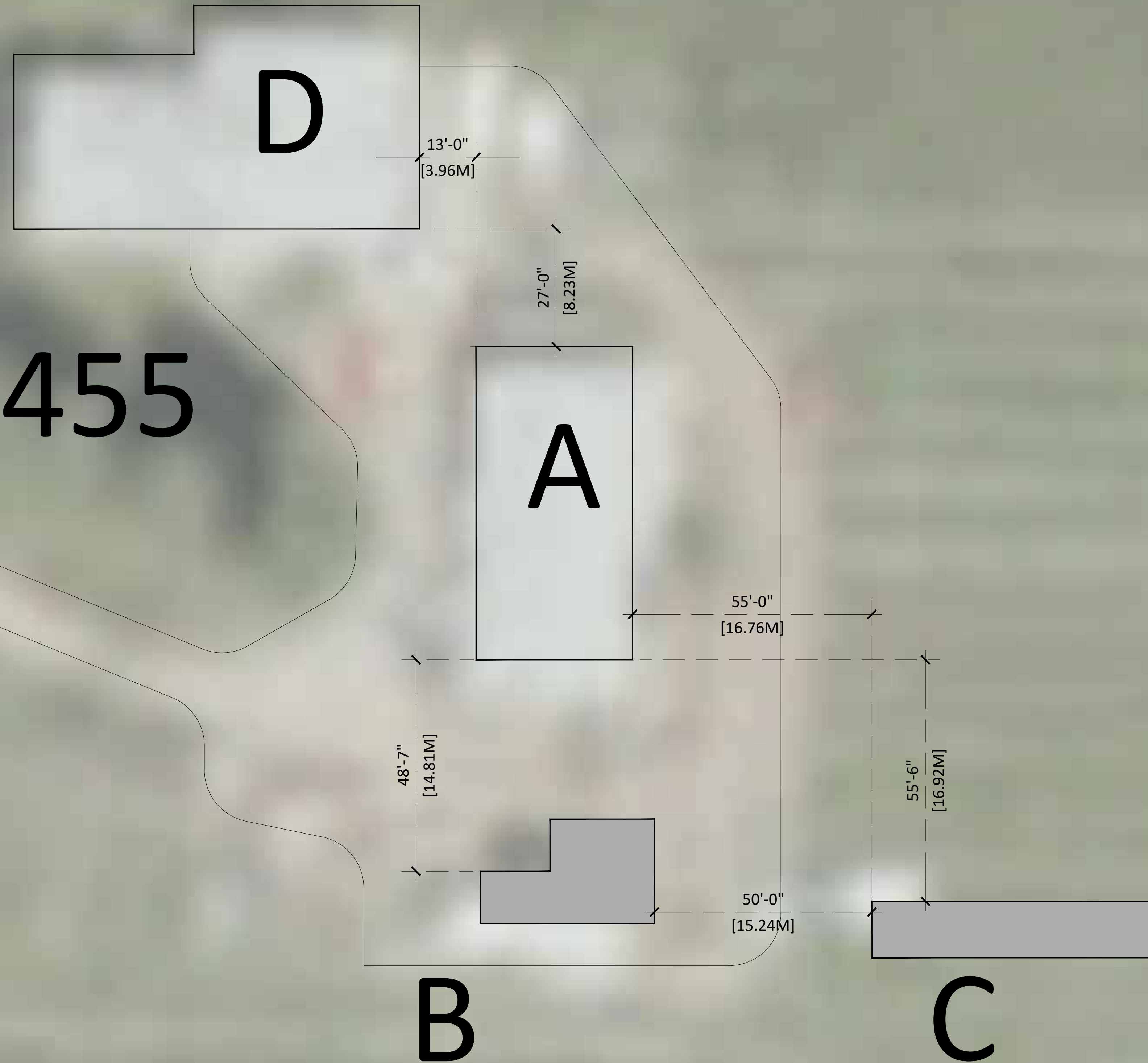
Attachments:

Attachment A: Site Plan

Attachment B: Non-Adhering Residential Use – ALC Application

ROSE ROAD

3455



2 PARTIAL SITE PLAN
A 1 1/16" = 1'-0"

3455 ROSE ROAD

ATTACHMENT A

This forms part of application
A19-0019/FH19-0007

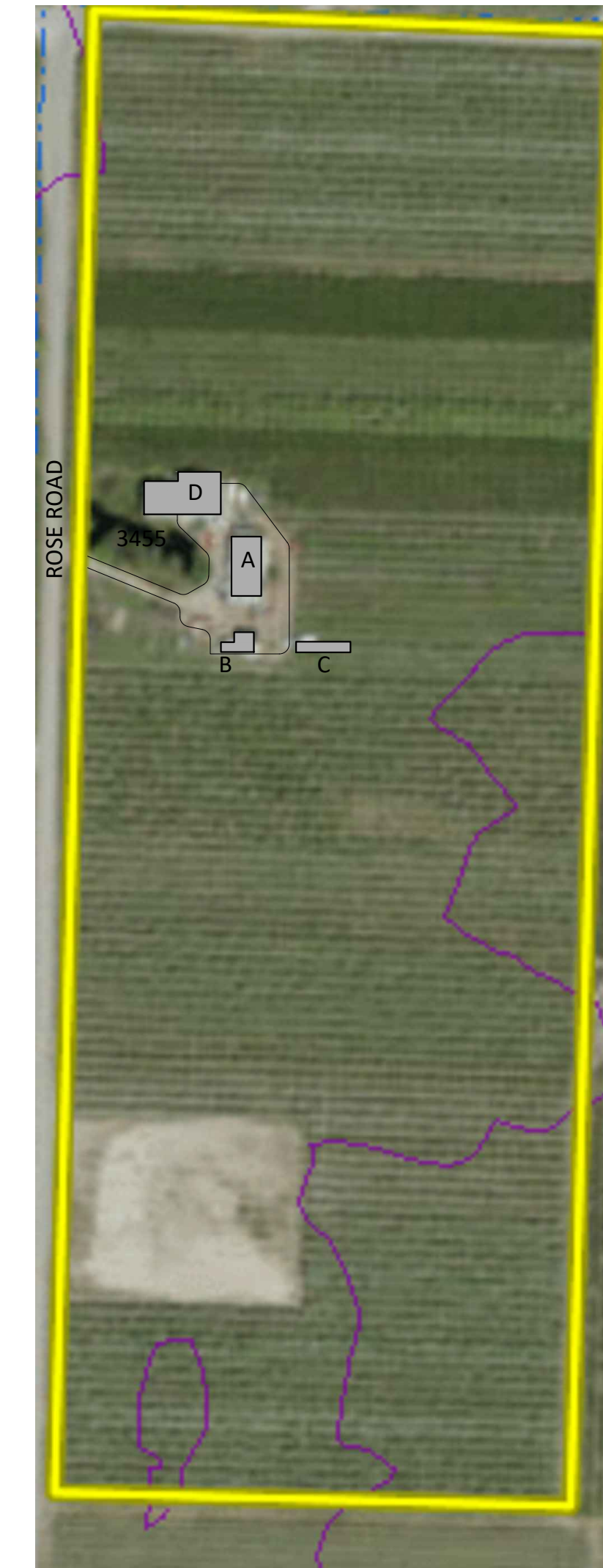
Planner Initials **TC**

- A STORAGE / SLEEPING UNIT / COOLER 778 sq. ft. 72.2 m2
- B ATCO SLEEPING UNIT 768 sq. ft. 71.3 m2
- C TRAILER SLEEPING UNIT 858 sq. ft. 79.7 m2
- D ONE RESIDENCE w/ GARAGE 4,300 sq. ft. 399.5 m2

MUNICIPAL ADDRESS
3455 ROSE ROAD
KELOWNA, B.C.
V1W-4G7

LEGAL ADDRESS
LOT 4 BLOCK
PLAN 355
KID 263285
PID 001-490-010

26.2 Acres / 10.6 Ha.



1 OVERALL SITE PLAN
A 1 NOT TO SCALE

DATE	NO.	BY	REVISION

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HOLDEN'S DRAUGHTING & DESIGN
832 SAUNDER AVENUE
KELOWNA, B.C. V1Y-6A3
Phone: 250.868.0962
Fax: 250.868.0962
Email: hholden@shaw.ca

PROJECT
FAM WORKERS QUARTERS
3455 ROSE ROAD
KELOWNA, B.C.

SHEET TITLE
SITE PLAN

DRAWN RAH	SHEET NO. A1
CHECKED N.D.	Rev. 0
SCALE AS NOTED	
DATE 9/9/2019	



Provincial Agricultural Land Commission - Applicant Submission

Application ID: 60092

Application Status: Under LG Review

Applicant: Nirmal Dhaliwal , Rimplejeet Dhaliwal

Local Government: City of Kelowna

Local Government Date of Receipt: 11/20/2019

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

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

Proposal: To get approval for existing buildings for seasonal farm workers. Two of the housing units are portable and the one is located in an accessory building.

We have an orchard with apples, peaches, prunes, and cherries. Harvesting cherries and apples is labour intensive, and the industry requires more seasonal workers than reside in the Okanagan. In order for the farm to have a sufficient number of workers there is no alternative to hiring workers through the SAWP program, which requires the farmer to provide accommodation. These 18 workers will allow us to harvest our crops.



Parcel Information

Parcel(s) Under Application

1. **Ownership Type:** Fee Simple

Parcel Identifier: 001-490-010

Legal Description: lot 4 plan kap 355 section 10 twnshp 26

Parcel Area: 10.5 ha

Civic Address: 3455 Rose Road

Date of Purchase: 06/15/2016

Farm Classification: Yes

Owners

1. **Name:** Nirmal Dhaliwal

Address:

Phone:

Email:

2. **Name:** Rimplejeet Dhaliwal

Address:

Applicant: Nirmal Dhaliwal , Rimplejeet Dhaliwal

Ownership or Interest in Other Lands Within This Community

1. **Ownership Type:** Fee Simple
Parcel Identifier: 025-652-966
Owner with Parcel Interest: Nirmal Dhaliwal
Parcel Area: 12.1 ha
Land Use Type: Agricultural/Farm
Interest Type: Full Ownership

2. **Ownership Type:** Fee Simple
Parcel Identifier: 011-333-367
Owner with Parcel Interest: Nirmal Dhaliwal
Parcel Area: 4.1 ha
Land Use Type: Agricultural/Farm
Interest Type: Full Ownership

3. **Ownership Type:** Fee Simple
Parcel Identifier: 002-677-202
Owner with Parcel Interest: Nirmal Dhaliwal
Parcel Area: 2.1 ha
Land Use Type: Agricultural/Farm
Interest Type: Full Ownership

4. **Ownership Type:** Fee Simple
Parcel Identifier: 007-883-315
Owner with Parcel Interest: Nirmal Dhaliwal
Parcel Area: 4.8 ha
Land Use Type: Agricultural/Farm
Interest Type: Unregistered Lease

Current Use of Parcels Under Application

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

This orchard is 26.2 acres. This orchard has approximately 11 acres apples, 8 acres cherries, 4 peaches and 1.5 acre prunes on this property.

My total farm operation for land I own is 72 acres including Rose Rd. In addition, I also lease 10 acres on Rose road in Kelowna. So total acres I farm is approximately 82.

I produced the following commodities of fruit in 2019.

Apples- 1,350,000 lbs (still harvesting)

Cherry-275,434 lbs

Peaches-33,000 lbs

Prunes-244,642 lbs (we are the biggest prunes growers in the valley!)

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

*five acre of new cherries planted 2018 (new irrigation system)
one acre of new cherries planted 2017 (new irrigation system)*

3. Quantify and describe all non-agricultural uses that currently take place on the parcel(s).
none

Adjacent Land Uses

North

Land Use Type: Agricultural/Farm
Specify Activity: orchard

East

Land Use Type: Agricultural/Farm
Specify Activity: orchard

South

Land Use Type: Agricultural/Farm
Specify Activity: orchard

West

Land Use Type: Agricultural/Farm
Specify Activity: orchard

Proposal

1. What is the purpose of the proposal?

To get approval for existing buildings for seasonal farm workers. Two of the housing units are portable and the one is located in an accessory building.

We have an orchard with apples, peaches, prunes, and cherries. Harvesting cherries and apples is labour intensive, and the industry requires more seasonal workers than reside in the Okanagan. In order for the farm to have a sufficient number of workers there is no alternative to hiring workers through the SAWP program, which requires the farmer to provide accommodation. These 18 workers will allow us to harvest our crops.

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

In the short term, the accommodations are required in order to house seasonal workers to harvest the crops on this 10.5 ha orchard. We are also depending on these 18 workers to harvest some 150 tons of cherries, 1.4 million lbs of apples, 200,000 lb of prunes and 40,000 lbs of peaches on other properties we own and lease in the Okanagan. We have no alternative accommodation, and rental accommodation is not a viable option in the peak of the Okanagans tourism season.

In the long term, the accommodation will house seasonal workers to prune, thin, replant, spray, harvest, etc the minimum of 27 ha of orchard we currently farm. All fruits crops we grow are very labour intensive and all hand harvested. These farms cannot be farmed without workers that are not available locally. Having accommodations for these workers and hiring seasonal workers is critical to harvesting this farmland in a timely manner. The farm worker housing is located between the orchard and the driveway. Additionally, the proposed farm worker housing is not on permanent foundation.

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

-There is one main residence. (399.5 m²)

- There is one accessory farm building for equipment and a suite located within it for seasonal farm workers that was built by the previous owner

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

223.2 m²

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

The Modular buildings are located on the land that is close to the driveway and drops off about 8 feet from the back. This is land that will not be farmed regardless of the outcome of this application. Additionally it located very close to the driveway of the property which does two things. It satisfies the City of Kelowna's requirement that the accommodation be located within 60 m of the property line, and it minimizes use conflict between the accommodation and the orchard. Any other site on the property would require workers to travel through the orchard to reach the accommodation and would require significantly more buffering of the accommodation.

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

The buildings, buffers, parking, septic field, and all associated infrastructure will be 0.2 ha

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

No

Applicant Attachments

- Proposal Sketch - 60092
- Certificate of Title - 001-490-010

ALC Attachments

None.

Decisions

None.

COMMITTEE REPORT



Date: February 13, 2020

RIM No. 1210-21

To: Agricultural Advisory Committee (AAC)

From: Development Planning Department (MS)

Application: A19-0021 **Owner:** Beatrice Elizabeth Van Den Eerenbeemt

Address: 620-622 Hartman Road **Applicant:** Brad Elenko; McElhenney Ltd.

Subject: Application to the ALC for a Homesite Severance

1.0 Purpose

The applicant is requesting permission from the Agricultural Land Commission (ALC) for subdivision of land in the Agricultural Land Reserve (ALR) under Section 21(2) of the Agricultural Land Commission Act. The subdivision is a homesite severance request as per Policy L-11 – Homesite Severance on ALR Lands. The owner of the lot has owned and resided on the property since 1970, and is therefore eligible for a homesite severance.

2.0 Proposal

The applicant seeks a two lot subdivision for the purpose of a homesite severance. The proposal is to subdivide the subject property, which is a total of 1.8 ha (4.45 acres) in size, to create a new homesite at the southeast corner of the lot abutting Hartman Rd. The applicant is seeking a 0.18 ha (0.45 acres) subdivision for the homesite. The remaining parcel would be 1.62 ha (4.0 acres) in size.

The lot contains two single family homes, a garage, and a butcher shop. The western-most single family home and butcher shop are both serviced by sanitary sewer, while the eastern-most home is serviced by a septic system with the septic field to the north of the home and east of the garage. These buildings are all clustered tightly at the southeast corner of the lot.

The remainder of the lot is being leased to raise livestock and poultry and also board horses, and contains three small farm buildings along the eastern edge near the centre of the lot. The farm buildings are being used for animal shelter and also storage of farm supplies.

The proposed subdivision would keep the eastern-most home and garage on the homesite lot. The western-most home and butcher shop would be kept with the remnant lot. In order to separate the buildings this way between the two lots a variance would be required on both lots to vary the minimum side yard setback. These variances are meant to minimize the size of the homesite lot and maximize the size of the remaining lot with farm.

A reciprocal access agreement would be required between the two properties to share the existing driveway. This would nullify any loss of farmland that would be caused by allowing the eastern-most home on the remnant lot to gain a new access to the west of the existing driveway. Should the homesite lot ever need a sanitary sewer service, the sewer main on Hartman Road would have to be extended to the new property line.

Map 1 – Property



Map 2 – Proposed Subdivision



2.1 Neighbourhood Context

The subject property is located in the Rutland Sector of the city. Farmland sits to the west, while more urban uses surround the property to the north, west and south. Specifically, a single family subdivision sits to the north, a row housing development sits to the west, Rutland Elementary School sits to the south, and sports fields sit to the southwest.

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

Table 1: Zoning and Land Use of Adjacent Property

Direction	Zoning	ALR	Land Use
North	RR ₃ – Rural Residential 3	No	Single Family Homes
South	P ₂ – Education and Minor Institutional	Yes	Rutland Elementary School
East	A ₁ – Agriculture 1	Yes	Agriculture / Rural Residential
West	RM ₃ – Agriculture 1	No	Row Housing

The lot has a future land use designation of S₂RES – Single / Two Unit Dwelling, and is within the City's Permanent Growth Boundary (PGB). This would suggest the City views this ALR lot as having development potential. However, since the existing Official Community Plan (OCP) was published, the City has published an Agriculture Plan which contains policy that even more firmly supports the preservation of Agricultural Land. Based on this policy, staff would not support any application to exclude the land from the ALR, nor any rezoning away from A₁ – Agriculture 1. It is expected that the future land use designation of this lot, and the boundary of the PGB will change with the upcoming OCP to reflect this strengthening in policy.

3.0 Development Planning

The City's Agriculture Plan recommends continued support for homesite severance applications consistent with ALC Policy L-11, which allows farmers owning ALR land since at least December 21, 1972 to dispose of the farm while retaining a homesite on the land. ALC policies state that consideration of any homesite severance should be reviewed in the context of the overall agricultural integrity of the parcel. Specifically, policy states that the homesite parcel should be minimized in size, and located such that it does not hamper the operation of the remaining farm. In this case, the proposed subdivision meets both of these criteria. This being the case, Development Planning supports the proposed homesite severance subdivision.

Report prepared by: Aaron Thibeault, Planner II

Approved for Inclusion: Alex Kondor, Planner Specialist

Attachments:

Schedule A – ALR Application with Supplementary Information

Schedule B – Proposed Homesite Severance Subdivision

Schedule C – Agricultural Land Commission Policy L-11 – Homesite Severance on ALR Lands



Provincial Agricultural Land Commission - Applicant Submission

Application ID: 60136
Application Status: Under LG Review

SCHEDULE A

This forms part of application
A19-0021



City of
Kelowna
COMMUNITY PLANNING

Planner
Initials **AT**

mitted to ALC yet.

Proposal: Homesite severance pursuant to ALC policy L 11

Agent Information

Agent: McElhanney Ltd.
Mailing Address:
290 Nanaimo Avenue West
Penticton, BC
V2A 1N5
Canada
Primary Phone: (240) 495-0499
Mobile Phone: (250) 485-7387
Email: belenko@mcelhanney.com

Parcel Information

Parcel(s) Under Application

- Ownership Type:** Fee Simple
Parcel Identifier: 003-921-824
Legal Description: L 4 SECS 25 & 26 TP 26 OSOYOOS DIVISION YALE DISTRICT PL 3078
Parcel Area: 1.8 ha
Civic Address: 622 Hartman Road
Date of Purchase: 06/06/1970
Farm Classification: Yes
Owners

Current Use of Parcels Under Application

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

The north 1/2 and southwest 1/4 of the property is used to graze farm animals. The southeast corner of the property includes the farm house, garage, secondary dwelling, and a butcher shop.

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

The land has been cleared and irrigation has been made available to the property.

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

The property contains the principal farm dwelling that is occupied by one of the owner's sons who operates the butcher shop, a small carriage house for the owner, a three-bay garage / storage area, and a butcher shop.

Adjacent Land Uses

North

Land Use Type: Residential

Specify Activity: single family residential

East

Land Use Type: Agricultural/Farm

Specify Activity: Vineyard

South

Land Use Type: Civic/Institutional

Specify Activity: school

West

Land Use Type: Residential

Specify Activity: multi-family residential

Proposal

1. Enter the total number of lots proposed for your property.

0.3 ha

1.5 ha

2. What is the purpose of the proposal?


Homesite severance pursuant to ALC policy L 11

3. Why do you believe this parcel is suitable for subdivision?

The owner meets the tests of the Homesite Severance policy and would like to retire on the property.

4. Does the proposal support agriculture in the short or long term? Please explain.

Yes, the balance of the farm parcel will continue to be used for farm purposes, while the homesite severance parcel will continue to provide a valuable service to the local farmers involved in the livestock industry.

SCHEDULE		A
This forms part of application # A19-0021		
Planner Initials	AT	 City of Kelowna COMMUNITY PLANNING

5. Are you applying for subdivision pursuant to the ALC Homesite Severance Policy? If yes, please submit proof of property ownership prior to December 21, 1972 and proof of continued occupancy in the "Upload Attachments" section.

Yes

Applicant Attachments

- Agent Agreement - McElhanney Ltd.
- Homesite Severance Qualification - 60136
- Professional Report - Supplementary Information
- Proposal Sketch - 60136
- Certificate of Title - 003-921-824

ALC Attachments

None.

Decisions


None.

SCHEDULE	A
This forms part of application # <u>A19-0021</u>	
Planner Initials	<input type="text" value="AT"/>
 City of Kelowna COMMUNITY PLANNING	

SUPPLEMENTARY INFORMATION

AGRICULTURAL LAND RESERVE SUBDIVISION APPLICATION PURSUANT TO SECTION 21(2) OF *ALC* ACT & ALC HOMESITE SEVERANCE ON ALR LANDS POLICY L-11

LOT 4 DISTRICT LOTS 25 AND 26 TOWNSHIP 26
OSOYOOS DIVISION YALE DISTRICT PLAN 3078

SCHEDULE	A
This forms part of application	
# A19-0021	
Planner Initials	<input type="text" value="AT"/>
 City of Kelowna COMMUNITY PLANNING	

Prepared for

December 4, 2019



PURPOSE

The purpose of this application is to request a 0.3 ha. homesite severance subdivision from the parent parcel of land which is approximately 1.8 ha. in area. The owner has owned and resided on the property since June of 1970, and the owner now desires to pursue a homesite severance to subdivide the house, garage and meat shop from the subject property.

LOCATION

The subject property is located at 622 Hartman Road within the City Kelowna and is bound by Craig Road to the west and McCurdy Road to the north. Rutland Elementary School is located south of the subject property with the west and north sides of the property adjacent to multi-family and single-family residential development respectively. The east side of the property is adjacent to a vineyard. The subject property is shown in Illustration 1 below.

Illustration 1: Site Location





SITE FEATURES

The 1.8 ha. parcel contains two homes; one for the owner (carriage house approximately 88 m²) and one for the owner's son and his wife (original farm home approximately 214 m²), a three-vehicle garage (112 m²) and a butcher shop (93 m²). The structures are all clustered quite tightly together in the southeast corner of the property. The north ½ and southwest ¼ of the property contains pasture three small farm outbuildings for animal shelter and storage of farm supplies. The property is relatively flat, dropping in elevation slightly from east to west by approximately 2.5 meters. The site features are noted in Illustration 2.

Illustration 2: Site Features





Agricultural History

After acquiring the Hartman Road property, the owner quickly began to use the property to raise livestock (cattle and pigs) and poultry. Presently, the area outside of the proposed homesite severance footprint is leased out for boarding horses and raising livestock and poultry.

After acquiring the Hartman Road property, the owners acquired the Bonanza Meats and Deli store on Adams Road and the family has been operating that store for the past 41 years. In addition to Bonanza Meats and Deli providing custom cuts of meat to both retail and wholesale clients, it does provide butcher service for pork producers.

While some of the family operates the Bonanza Meats and Deli operation, the owner constructed a small butcher shop on their Hartman Road property to allow the family to expand its rich history as meat butchers by providing butcher services to the cattle industry.

PROPOSAL

The property owner desires to subdivide a homesite parcel from the south east corner of the parent parcel. The proposed homesite severance would include the principal dwelling, a carriage house, garage and butcher shop, and would be approximately 0.3 ha. in area. The remainder farm parcel would be approximately 1.5 ha. in area. The proposed homesite severance lot is connected to municipal water and sewer and the proposed remainder farm parcel has a separate water service for irrigation purposes. The proposed subdivision is shown on Illustration 3.

The property owner meets the tests for a homesite severance application as outlined in ALC Policy L-11, and wants to subdivide the property to create a 0.3 ha parcel which would include a butcher shop that her son operates. The butcher shop does not need additional agricultural land to operate, and the owner wishes to keep the butcher shop on her homesite parcel.

The proposed homesite severance will not have a negative impact on the ability to farm the balance of the property. The balance of the farm is presently being leased out for farm purposes and the proposed subdivision will not change the uses that are occurring on the proposed homesite parcel, so there will be no impacts of the ability to continue to farm the balance of the property. The proposed subdivision supports agriculture in both the short and long term as the proposed subdivision will not in any way impede the ability to conduct agriculture on the remainder parcel to be created, and the presence of the butcher shop on the smaller property will result in a continued agricultural service to local cattle ranchers who require butcher services.

Illustration: 3

Proposed ALR Homesite Severance Application


622 Hartman Road

- Propose to subdivide approximately 0.18 ha. from the southeast corner of the property as an ALR Homesite Severance.

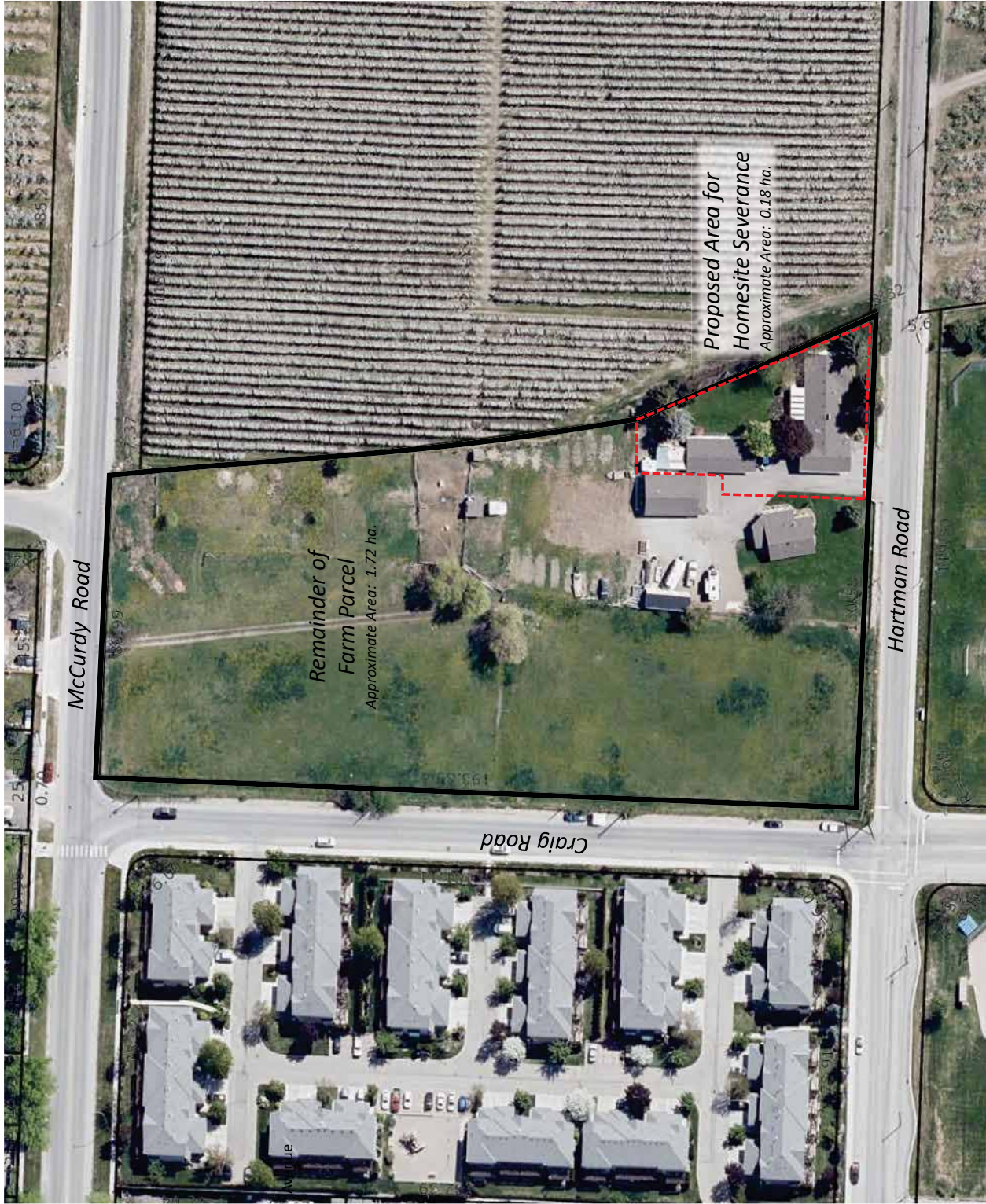
SCHEDULE
This forms part of application # A19-0021

Planner Initials **AT**

Property Boundary
Proposed ALR Homesite Severance Area



PREPARED FOR: NTS
MUNICIPALITY OF KELOWNA
PROJECT: 2022.20274.00
MUN. PROJECT:
McElhenney



This drawing is a representation of the proposed subdivision and is not a legal document. It is subject to change without notice. The user of this drawing is advised to consult with a professional surveyor or lawyer for more information. The user of this drawing is advised to consult with a professional surveyor or lawyer for more information. The user of this drawing is advised to consult with a professional surveyor or lawyer for more information.

SCHEDULE C

This forms part of application
A19-0021



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 <p>Agricultural Land Commission Act</p>	<p>Planner Initials <input type="text" value="AT"/></p> <p>City of Kelowna COMMUNITY PLANNING</p> <p>Policy L-11 January 2016</p> <p>HOMESITE SEVERANCE ON ALR LANDS</p>
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This policy is intended to assist in the interpretation of the [Agricultural Land Commission Act, 2002](#), including amendments as of September 2014, (the “ALCA”) and BC Regulation 171/2002 ([Agricultural Land Reserve Use, Subdivision and Procedure Regulation](#)), including amendments as of August 2016, (the “Regulation”). In case of ambiguity or inconsistency, the ALCA and Regulation will govern.

The purpose of this policy is to provide a consistent approach to situations where property under application has been the principal residence of the applicant as owner-occupant since December 21, 1972 and the applicant wishes to dispose of the parcel but retain a homesite on the land.

A subdivision application under Section 21 (2) of the ALCA is required.

Persons making use of this homesite severance policy (the “Homesite Severance Policy”) must understand the following:

- a. there is no automatic right to a homesite severance;
- b. the Agricultural Land Commission (the “Commission”) shall be the final arbiter as to whether a particular homesite severance meets good land use criteria; (see #4 below)
- c. a prime concern of the Commission will always be to ensure that the “remainder” will constitute a suitable agricultural parcel. (see #5 below).

Without limiting the generality of the foregoing, the following guidelines apply to homesite severance applications.

1. A once only severance may be permitted where the applicant submits documentary evidence that he or she has continuously owned and occupied the property as his or her principal place of residence since December 21, 1972.
2. Where an applicant for a homesite severance has had a previous subdivision application approved by the Commission resulting in the creation of a separate parcel, the Commission may deny any further subdivision under the Homesite Severance Policy.
3. An application for a homesite severance will be considered only where the applicant submits documentary evidence showing a legitimate intention to sell the remainder of the property upon the approval of the homesite severance application. (An interim agreement for sale, a prospective buyer’s written statement of intent to purchase, a real estate listing, or some other written evidence of a pending real estate transaction may be acceptable as documentation)

In considering the application, the Commission may make an approval subject to sale of the remainder within a specified period of time.

An order of the Commission authorizing the deposit of the subdivision plan will be issued to the Registrar of Land Titles only when a transfer of estate in fee simple or an agreement for sale is being registered concurrently.

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

The following two options apply to a homesite severance:

- a. the existing homesite may be created as a separate parcel where it is of a minimum size compatible with the character of the property (plus a reasonable area, where required, for legal access purposes); or
 - b. where the location of the existing homesite is such that the creation of a parcel encompassing the homesite would, in the Commission's opinion, create potential difficulty for the agricultural operation or management of the remainder, the Commission may, if it deems appropriate, approve the creation of a homesite severance parcel elsewhere on the subject property.
5. The remainder of the subject property after severance of the homesite must be of a size and configuration that will, in the Commission's opinion, constitute a suitable agricultural parcel. Where, in the Commission's opinion, the remainder is of an unacceptable size or configuration from an agricultural perspective, there may be three options:
 - a. the Commission may deny the homesite severance;
 - b. the Commission may require that the remainder be consolidated with an adjacent parcel; or
 - c. the Commission may require the registration of a covenant against the title of the remainder and such a covenant may prohibit the construction of dwellings.
 6. A condition of every homesite severance approved by the Commission shall be an order stipulating that the homesite is not to be sold for five years except in the case of the death of the owner. Prior to the issuance of a Certificate of Order authorizing deposit of the subdivision plan, the owner shall file with the Commission a written undertaking or other legal documentation satisfactory to the Commission setting out this commitment.
 7. Where a homesite severance application has been approved by the Commission, local governments and approving officers are encouraged to handle the application in the same manner as an application under Section 514 of the [Local Government Act](#) insofar as compliance with local bylaws is concerned.

Unless defined in this policy, terms used herein will have the meanings given to them in the ALCA or the Regulation.

RELATED POLICY:

ALC Policy L-17 *Activities Designated Permitted Non-Farm Use in the ALR: Lease for a Retired Farmer – Zone 2*

SCHEDULE		C
This forms part of application # A19-0021		
Planner Initials	AT	 City of Kelowna COMMUNITY PLANNING