

REPORT TO COUNCIL



Date: March 25th 2019

RIM No. 1250-01

To: City Manager

From: Community Planning Department (AK)

Application: A19-0005 and FH19-0001 **Owner:** Geen, David

Address: 2975 Gallagher Drive **Applicant:** Sellinger, Bob

Subject: ALR Non-Adhering Residential Use Permit and Temporary Farm Worker Housing Permit

Existing OCP Designation: REP – Resource Protection Area

Existing Zone: A1 – Agriculture 1

1.0 Recommendation

THAT Agricultural Land Reserve Appeal No. A19-0005 for Lot A, Section 12, Township 26, ODYD, Plan EPP71625 located at 2975 Gallagher Drive, Kelowna, BC for a non-adhering residential use permit pursuant to Section 25 of the *Agricultural Land Commission Act*, be supported by Council;

AND THAT the Council directs Staff to forward the subject application to the Agricultural Land Commission for consideration.

AND THAT Council authorizes the issuance of Temporary Farm Worker Housing Permit No. FH19-0001 for Lot A, Section 12, Township 26, ODYD, Plan EPP71625 located at 2975 Gallagher Drive, Kelowna, BC subject to the following:

1. Approval by the Agricultural Land Commission of Non-Adhering Residential Use Permit Application #A19-0005;
2. The dimensions and siting of the building to be constructed on the land be in accordance with Schedule "A,"
3. A minimum 3-metre-wide vegetated buffer is provided for screening to adjacent property lines and between the temporary farm worker housing and active farming areas.
4. The applicant be required to post with the City a Landscape Performance Security deposit in the form of a "Letter of Credit" in the amount of 125% of the estimated value of the landscape buffer, as determined by a Registered Landscape Architect;
5. Registration of a Section 219 restrictive covenant on title that states:
 - The dwellings will be used for temporary farm workers only;

- The owner will remove the dwellings if the farm operation changes such that if they are 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 accommodation permitted on this farm unit within this City sector is 60 workers; and,
- The temporary farm worker housing building footprint is a maximum of 0.3ha.

AND FURTHER THAT this Permit is valid for two (2) years from the date of Council approval, with no opportunity to extend.

2.0 Purpose

To consider an ALR Non-Adhering Residential Use Permit and Temporary Farm Worker Housing Permit to allow for proposed temporary residences on non-permanent foundations to accommodate 60 temporary agricultural workers on the subject property.

3.0 Community Planning

Community Planning staff support the application for temporary farm worker housing for a maximum of 60 agriculture workers on the subject property. The proposed temporary farm worker accommodation meets the regulations of the Zoning Bylaw and the guidelines stated in Official Community Plan. The proposal is also consistent with Ministry of Agriculture standards for temporary farm worker accommodation.

Specifically, agriculture is the principal use on the parcel, and the applicant has demonstrated that the housing is necessary to accommodate farm employees whose residence on the farm property is considered critical to the overall operation of the farm. The proposed accommodation is on non-permanent foundations which is the preferred solution where the need for farm worker housing is justified. The proposed housing meets the needs of the farming operation and is located in an area of the property that minimizes the residential impact to agriculture.

4.0 Proposal

4.1 Background

The property is farmed by Coral Beach Farms Ltd. The company currently has 810 acres of cherries planted with an additional 310 acres planned by 2020 for a total of 1,120 acres. 300 of those acres will be in the City of Kelowna. The majority of land owned or leased by the company is in the Central and North Okanagan. In 2018 the company produced 3,750 tons of cherries, and upwards of 6,000 tons is expected by 2021. The cherries are currently packed at the company's facility in Carr's Landing and a new packing facility is proposed for a property on Highway 97 N to handle future demand.

Coral Beach Farms employs approximately 1,000 staff in the peak summer season, 40 to 80 staff in the shoulder seasons (spring and fall), and 15 staff year round. By 2023 the company expects to employ over 1,400 staff. Approximately 60% of seasonal staff are brought in under the Seasonal Agricultural Workers Program (SAWP) program from Mexico and Jamaica, with the remainder primarily being international backpackers and out-of-province Canadians. The company currently has 550 beds for SAWP staff plus 100 beds of rented accommodation and 250 beds at serviced campsites. In 2018 the property owners obtained permission for Temporary Farm Worker Housing to house 140 workers at another location on Shanks Road (TA18-0001/FH18-0001).

Effective February 22, 2019, the Agricultural Land Commission Act and the ALR Use Regulation has been amended. If a landowner wishes to have residences for temporary farm worker accommodation the landowner must submit an application to the Agricultural Land Commission, through the local government, seeking Commission approval (ALCA, ss. 20.1(2), 25). This type of application is deemed to be an "application for a non-adhering residential use". In addition to the Temporary Farm Worker Housing Permit the property owners have applied to the ALC for a non-adhering residential use.

4.2 Project Description

The property owners have applied for permits to accommodate 60 workers on the subject site located at 2975 Gallagher Road. The subject property is zoned for A1 - Agriculture and located within the Agricultural Land Reserve (ALR). The lot is 61 hectares (151 acres) in area. Approximately 35 acres are presently planted as cherry orchard and nursery with another 55 acres to be planted this spring. The proposed accommodation is required in order to house seasonal workers to maintain the cherry orchard on the property and nearby orchards of Coral Beach Farms.

The application is for a total of 60 beds for temporary farm worker housing (TFWH) in temporary structures on non-permanent foundations. Specifically, the proposal is to accommodate 60 seasonal farm workers by placing 12 'ATCO' trailers on the property. The housing will be located in two 'pods' of 6 trailers each. Each pod contains 30 beds, shared washrooms and a common kitchen area.

The trailers are located near a low-point of the property that is not being farmed as it deemed to be a frost pocket. The proposed location is not highly visible from the surrounding area. Additionally, the proposed location of the trailers is near an access easement used as a driveway to the site and is meant to minimize any potential conflicts with the orchard.

In accordance with the City of Kelowna Farm Protection Development Permit Guidelines a 3m wide landscape buffer will be required for screening to adjacent properties liens and between the temporary farm working housing and active farming areas.

4.3 Site Context

The site is located outside of the Permanent Growth Boundary and within the Belgo-Black Mountain City Sector. The site is located on a portion of Layer Cake Mountain and was planted with cherries starting in 2017/18. The lot is adjacent to Mission Creek to the south and west which is designated as Park in the Official Community Plan and Zoned P3 – Parks and Open Space. The lot is adjacent to Kirschner Mountain to the north which is designated S2Res – Single/Two Unit Residential in the OCP and zoned A1 – Agriculture 1. The property is accessed by easement from Gallagher Road to the east, and the location of the access easement will likely become a future road to service Kirschner Mountain development.

5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Chapter 5: Development Process

Objective 5.33 Protect and enhance local agriculture.

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.

Objective 5.34 Preserve productive agricultural land.

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.
- Temporary farm worker housing (e.g. bunkhouse accommodation on non-permanent foundations) is the preferred solution where the need for farm worker housing is justified.

Chapter 15 Farm Protection Development Permit Guidelines.

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.

5.2 City of Kelowna Agriculture Plan

Allow Temporary Farm Worker Housing, as permitted by City of Kelowna bylaw. Temporary Farm Worker Housing, 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 for cooking, sanitary, living and sleeping. The footprint does not include the vegetated buffer.

6.0 Technical Comments

6.1 Building & Permitting Department

- Full Plan check for Building Code related issues will be done at time of Building Permit applications. Please indicate how the requirements of Radon mitigation and NAFS are being applied to this complex at time of permit application.

6.2 Development Engineering Department

- Access driveway to the subject property is to be built to BCBC standard for driveway access.

- The on-site treatment and disposal of wastewater is under the jurisdiction of the Public Health Officer.
- The subject property is located within the Black Mountain Irrigation District (BMID) all fees and upgrades must be dealt with directly with BMID

6.3 Ministry of Agriculture

- Letter dated January 25th 2019 attached.

7.0 Application Chronology

Date of Application Received: November 29th 2018
Date Public Consultation Completed: February 21st 2019

Prepared by: Alex Kondor, Planner Specialist

Reviewed by: Laura Bentley, Community Planning Supervisor

Approved for Inclusion: Ryan Smith, Community Planning Department Manager

Attachments:

Schedule A – Site Plan
Schedule B – Agrologist Report
Attachment C – Letter from Ministry of Agriculture
Attachment D – ALC Non-Adhering Residential Use Application