

- iv. Minimizes Impacts on Productive Agricultural Lands; and,
- v. Will Not Harm Adjacent Farm Operations.

i. Consistent with the Zoning Bylaw and OCP

To protect agricultural land and ensure that farming is the primary use in the ALR, policies in the OCP and Agriculture Plan direct additional residential development to within the Permanent Growth Boundary (PGB) and outside of the ALR (see section 5 of this report). The proposed second dwelling is not considered necessary for farm use and it does not directly benefit agriculture. The A₁ – Agriculture 1 zone permits one single detached house, which may contain a secondary suite. It should also be noted that in accordance with the direction of the Agriculture Plan, Council adopted a bylaw removing the A_{1c} – Agricultural 1 with Carriage House subzone from the Zoning Bylaw on October 1, 2018.

A secondary suite within the existing principle dwelling is an alternative way to achieve an additional residential unit on the property while adhering to the policies of the OCP and Agriculture Plan, Zoning Bylaw regulations, and Agricultural Land Commission (ALC) requirements.

ii. Provides Significant Benefits to Local Agriculture

Additional permanent dwellings typically offer limited direct benefits to agriculture and/or agricultural production, particularly where there is not a significant degree of farming taking place on the property. Non-farm use of farmland is a concern because it is rarely reversed, often resulting in land that is not used for agricultural production for the foreseeable future. Furthermore, additional dwellings increase the value of farmland, making it more difficult for younger or newer farmers to access land.

iii. Can be Accommodated Using Existing Municipal Infrastructure

The subject property is connected to sanitary services situated along McCurdy Rd E. Although the property is connected to sanitary sewer, typically the extension of municipal sewer into the ALR is restricted to avoid speculation and pressure for further urban development. The extension of municipal infrastructure into the ALR is only supported where it is needed to address public health issues and protect natural resources. The availability of sanitary sewer to agricultural properties within the ALR does not translate to support for additional dwellings beyond what the Zoning Bylaw or ALC regulations permit.

iv. Minimizes Impacts on Productive Agricultural Lands

Multiple dwellings on agricultural land is generally considered to have a negative impact on farming potential. According to the Ministry of Agriculture Guide for Bylaw Development in Farming Areas (2015) there are a number of objectives aimed at preserving, protecting and enhancing farm land, including:

- minimizing the impact of residential uses on farm practices and farming potential in farming areas
- minimizing loss and/or fragmentation of farmland due to residential uses; and
- minimizing the impact of residential uses on increasing the costs of farmland

Adding a secondary suite instead of a full second dwelling would better align with these and City objectives, and allow the existing accessory building to be used for farming activity, such as equipment storage.

v. Will Not Harm Adjacent Farm Operations

The addition of a second dwelling on the subject property raises some concerns with increased potential for land use conflicts between agricultural and residential uses. Adding residential uses on or adjacent to agricultural land can put more pressure on farmers who are following normal farm practices due to conflicts regarding odour, noise, and spray, for example.

4.0 Proposal

4.1 Background

This proposal includes an existing 250 m² (2690.9 ft²) accessory building which was issued a building permit in 2008 as a 7 bay garage but did not receive final occupancy. Approximately 109.5 m² (1178.6 ft²) of the accessory building was converted without building permits into a 2 bedroom and 2 bathroom living space in 2010 and has since been used as a dwelling. Currently, the owner's aging parents live in the illegal dwelling.

A previous application for a second dwelling on the subject site was received by the City of Kelowna in 2009 from the current property owner and was subsequently forwarded to the ALC for a decision following support from Council. The ALC reviewed the proposal in 2010 and did not approve it.

The owner of the property has made improvements to approximately 2,900 m² of lot area through the use of terracing, grading and clearing with the intent of increasing the agriculture capability of the land. The property owner has indicated the intent to develop a vineyard on the site which is anticipated to encompass nearly 1.5 ha of cleared land, representing roughly 40% of the total land area of the property. The planting of the future vineyard is anticipated to begin sometime this year.

4.2 Site Context

The subject property is located outside of the Permanent Growth Boundary and within the Rutland City Sector on the north side of McCurdy Rd E between Gibson Rd and Latta Rd. The site has a Future Land Use Designation of REP – Resource Protection Area and is not located in close proximity to amenities or transit routes. The surrounding neighbourhood is comprised largely of A1 – Agriculture 1 zoned properties.

Subject Property Map: 1425 McCurdy Rd E



5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Chapter 5: Development Process

Objective 5.3 Focus development to designated growth areas

Policy .1 Permanent Growth Boundary. Establish a Permanent Growth Boundary as identified on Map 4.1 and Map 5.2. The City of Kelowna will support development of properties outside the PGB for more intensive use only to the extent permitted as per the OCP Future Land Use designations in place as of initial adoption of OCP Bylaw 10500, except for Agri-Business designated sites or as per Council's specific amendment of this policy. The PGB may be reviewed as part of the next major OCP update.

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 Agriculture Plan. Ensure that the primary use of agricultural land is agriculture, regardless of parcel size.

Policy .3 Urban Uses. Direct urban uses to lands within the urban portion of the Permanent Growth Boundary, in the interest of reducing development and speculative pressure on agricultural lands.

Policy .6 Non-farm Uses. Restrict non-farm uses that do not directly benefit agriculture. Support non-farm use applications on agricultural lands only where approved by the ALC and where the proposed uses:

- are consistent with the Zoning Bylaw and OCP;
- provide significant benefits to local agriculture;
- can be accommodated using existing municipal infrastructure;
- minimize impacts on productive agricultural lands;
- will not preclude future use of the lands for agriculture;
- will not harm adjacent farm operations.

Policy .8 Housing in Agricultural Areas. Discourage residential development (both expansions and new developments) in areas isolated within agricultural environments (both ALR and non-ALR).

6.0 Technical Comments

6.1 Building & Permitting Department

- Accessory building was originally permitted as a 7 bay garage but never received final occupancy.
- Accessory building was illegally converted to a dwelling without proper building permits or approvals. If dwelling is to be supported and allowed to remain building permits will be required.

6.2 Ministry of Agriculture

- See attached response letter dated October 12, 2018.

6.3 Interior Health

- See attached response letter dated December 18, 2018.

7.0 Application Chronology

Date of Application Received: January 8, 2018
Date of Complete Submission: September 25, 2018

8.0 Alternate Recommendation

THAT Agricultural Land Reserve Appeal No. A18-0001 for Lot 2, Section 36, Township 26, ODYD, Plan 23935 Except Plans KAP53090 and KAP84358, located at 1425 McCurdy Rd E, Kelowna for a Non-Farm Use in the Agricultural Land Reserve pursuant to Section 20(3) of the Agricultural Land Commission Act, be supported by Council;

AND THAT Agricultural Land Reserve Appeal No. A18-0001 be supported with the following conditions:

THAT the second dwelling be restricted to a maximum floor area of 110.0 m²;

AND THAT the property owner be required to register a farm residential footprint on Title;

AND FURTHER THAT Council directs Staff to forward application A18-0001 to the Agricultural Land Commission for consideration.

Report prepared by: Andrew Ferguson, Planner

Reviewed by: Laura Bentley, Community Planning Supervisor

Approved for Inclusion: Ryan Smith, Community Planning Department Manager

Attachments:

- Attachment A: Site Plan
- Attachment B: Floor Plan
- Attachment C: Ministry of Agriculture Letter
- Attachment D: Interior Health Letter
- Attachment E: Agrology Report
- Attachment F: Rationale Letter