

# COMMITTEE REPORT



**Date:** May 9<sup>th</sup> 2019

**RIM No.** 1210-21

**To:** Agricultural Advisory Committee (AAC)

**From:** Community Planning Department (AK)

**Application:** A19-0003 (Non-Farm Use Application)      **Owner:** Trine and Ryan Markewich

**Address:** 3019 Leader Road      **Applicant:** OTG Development Concepts

**Subject:** Application to the ALC for a Non-Farm Use Permit for Commercial Use

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## 1.0 Purpose

The applicant is requesting permission from the ALC for a Non-Farm Use Permit to allow a commercial landscaping business to operate on the subject property for up to a maximum of five (5) years. The property owner also applied for a Temporary Use Permit.

## 2.0 Proposal

### 2.1 Background

The subject property is a 5.7 acre (2.3 ha) property located at the intersection of Leader Road and KLO Road. There is an existing single detached house and two agri-accessory structures on the property. Approximately 3.3 acres of the property is being farmed to grow perennials, shrubs, trees and organic vegetables. Approximately 2 acres of the property comprises of a residential area, vehicle access, accessory structures and a composting area. A landscaping company is currently operating on the subject site and the owners have applied for a Non-Farm Use Permit and Temporary Use Permit to allow the business to continue to operate for a maximum of 5 years.

A Non-Farm Use permit must be approved by Agricultural Land Commission. If approved the property owners would be required to also obtain a Temporary Use Permit approved by the City of Kelowna. Temporary Use Permits are intended to apply to operations that are temporary in nature and do not fit into the specific uses permitted by the Zoning Bylaw for a property. Council may, by resolution, issue a Temporary Use Permit and specify the conditions under which the temporary use be carried on. Upon the expiration of a Temporary Use Permit, the permitted uses revert to those outlined in the City of Kelowna Zoning Bylaw. Conditions such as appropriate landscaping, screening and buffering can be included as conditions of the permit to protect adjacent land uses.

## 2.2 Proposal

The application is to allow a landscaping business to operate on the subject property on temporary basis up to a maximum of five (5) years. The applicants are proposing to apply for a time-specific approval in order to bring the property into compliance over the next five years. The application notes that the owner is in the process of selling the business but is not including the sale of the subject property in an effort to facilitate that the business relocate to a more suitable property if it transfers to new owners. The owner is proposing to limit the footprint of the business to 100 sq m which is comparable to the same size that is allowed by the ALC and City of Kelowna for home occupations. The applicants are proposing to ensure the storage of any landscaping equipment and material is stored within the designated 100sqm area on the subject property.

## 2.3 Site Context

The majority of the subject property is designated REP – Resource Protection Area in the City's Official Community Plan. The property is zoned A<sub>1</sub> – Agriculture 1 and is located within the Agricultural Land Reserve.

## 2.4 Neighbourhood Context

The subject property lies within the South Pandosy – KLO City Sector. The property is adjacent to Mission Creek to the East this area is designated as Park in the Official Community Plan. The land to the south of the property is designated Recourse Protection Area, Zoned A<sub>1</sub>, and within the ALR. The area to the north and west of the property is designated Single/Two Unit Residential - S<sub>2</sub>RES, Zoned A<sub>1</sub>, and being used predominantly for single detached housing.

## 3.0 Community Planning

In order to protect and enhance local agriculture the policy of the Official Community Plan provides support for non-farm use applications only where the proposed use meets the following criteria:

- i. Consistent with the Zoning Bylaw and OCP;
- ii. provides significant benefits to local agriculture;
- iii. can be accommodated using existing municipal infrastructure;
- iv. minimizes impacts on productive agricultural lands;
- v. will not preclude future use of the lands for agriculture; and,
- vi. will not harm adjacent farm operations

The Official Community Plan states that Temporary Use Permits outside the Permanent Growth Boundary may be considered on lands designated Resource Protection Area, with a stated time period considerably less than the maximum three (3) year time limit.

The Agriculture Plan recommends using Temporary Use Permits for non-farm use applications within the ALR/A<sub>1</sub> zones if the proposed development is temporary in nature. Examples may include commercial use of a portion of the ALR that is ancillary to farming. The Agriculture Plan also recommends support for non-farm uses in farm areas only that have a direct and ongoing benefit to agriculture and restrict and/or prohibit non-farm uses that do not directly benefit agriculture.

**Report prepared by:** Alex Kondor, Planning Specialist

**Reviewed by:** Laura Bentley, Community Planning Supervisor

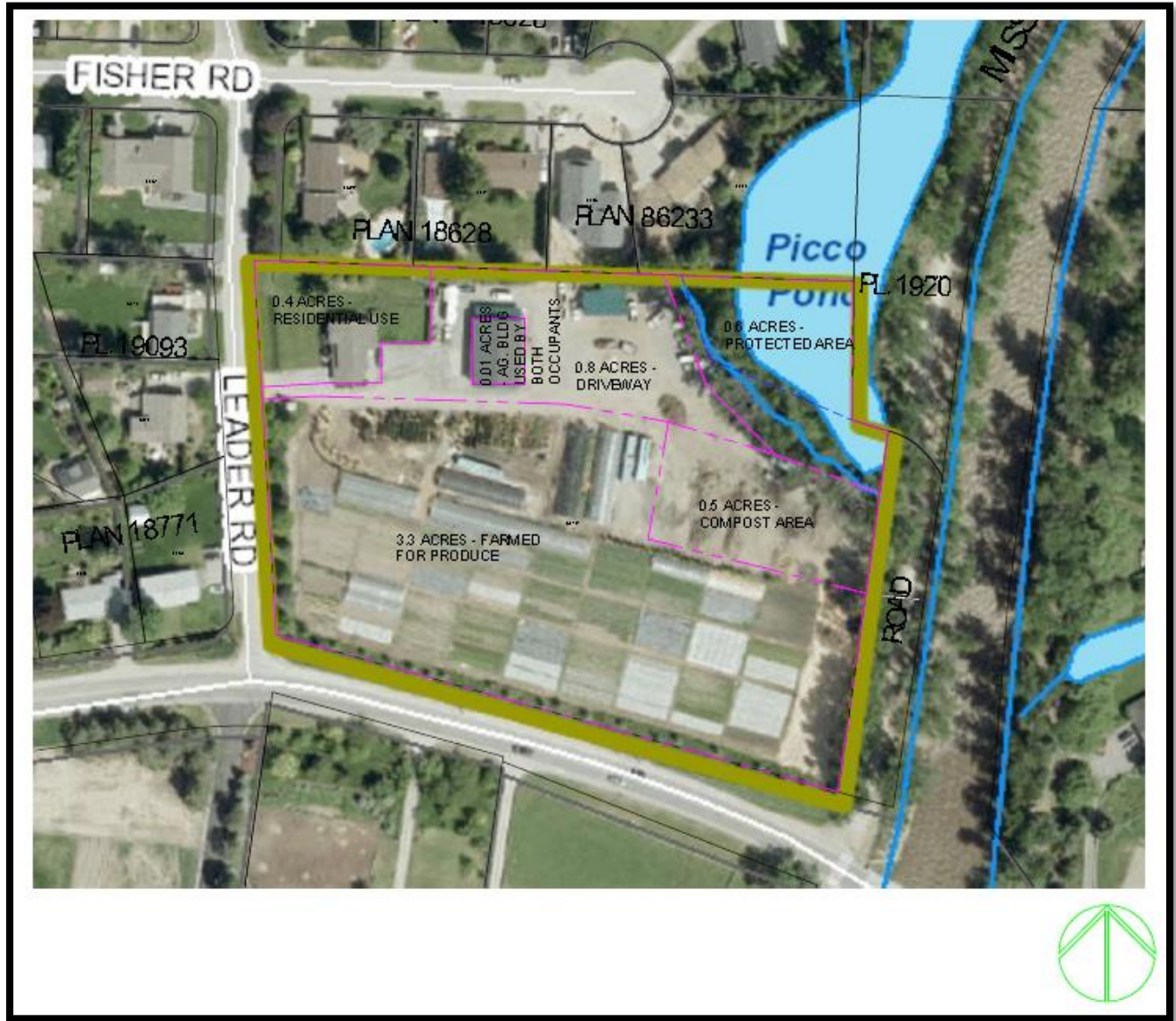
**Attachments:**

Attachment A – Site Plan

Attachment B – Temporary use Permit and Non-Farm Use Application Letter

Attachment C – Letter from Ministry of Agriculture

# Attachment A – Site Plan



## Attachment B – Application Letter



### **Via Electronic Delivery**

File No.: 18-021

October 18, 2018

City of Kelowna  
1435 Water Street  
Kelowna, BC  
V1Y 1J4

Attention: Ryan Smith, BA, RPP, MCIP, Department Manager, Community Planning - City of Kelowna

**Re: 3019 Leader Rd – Kelowna BC – Temporary Use Permit and Non-Farm Use Application**

Mr. Smith,

Please accept this letter as a supplement to the above noted Temporary Use Permit Application (TUP) and Non-Farm Use to bring the subject property into compliance for a time duration of 5 years. It is understood that this application, if approved, would be for three (3) years, and would need to be renewed for an additional two (2) years.

### **Temporary Use Permit**

As noted above, we are proposing to apply for a time specific Non-Farm Use Application in the ALR which would be supplemented by a Temporary Use Permit (TUP). This would bring the property into compliance during the specified time period.

The City of Kelowna OCP allows for a TUP for time periods less than three years. Additionally, the *Local Government Act* allows for a TUP to be renewed once.

### *Timeframe*

As discussed at the meeting on March 16, 2018, the owner is in the process of selling the business to its employees. It is important to note that the pending sale does not include the sale of the land (3019 Leader Road). As the business transitions to the new ownership, the business will relocate to a more suitable property. This process is expected to take no more than 5 years.

### **Non-Farm Use**

The owner will start limiting the non-farm uses to the permitted footprint. ALC Policy L-07 – Activities Designated as a permitted Non-Farm use: Home Occupation Use in the ALR allows for a non-farm use on a legal parcel in the ALR, to be a maximum area of 100m<sup>2</sup> (1,076 square feet).

During the transition stage of Creative Roots will ensure that storage of any landscaping equipment and material is stored within the designated 100m<sup>2</sup> on the subject property. There is a lean-to on the subject property that is about 90m<sup>2</sup> that can house this equipment temporarily.

### **Site Description**

The subject property is 5.78 acres and is zoned Agricultural 1(A1). There is a Single-family home, lean-to, four greenhouses, and a farm accessory building located on the subject property. The greenhouses are used by Wise Earth Farms who lease approximately 3 acres to grow produce.

Picco Pond is in the North East of the subject property and to the East is Mission Creek. There is a no disturbance covenant on title of the subject property to protect the natural environment of Picco Pond.

### **Background Information**

#### *Historical Increase to Agricultural Activity*

When the owner purchased the property essentially none of the land was used for agricultural purposes. The previous owners grazed horses followed by many years of no farm use, and then leased the land for fruit tree production and strawberry farming. These ventures were unsuccessful due to a high infestation of wire-worm in the soil.

Immediately after purchasing the property the owner began working the land, installing irrigation, and planting and tilling in cover crops to replenish soil nutrients and structure and to control weeds. Since then, there has been perennial propagation, ornamental shrub and tree growing and a well-known certified organic vegetable operation owned by John Hofer of Wise Earth Farms. Mr. Hofer provides many of the top end restaurants like Raudz Round Table, Mission Hill and Quails' Gate Winery to name a few. In addition, they have a Community Supported Agriculture (CSA) program and a regular spot at the local farmers market.

It has taken a considerable amount of work to get the land to the stage it is at now. The philosophy of Wise Earth is not traditional, nor will it ever be. Of the 5.75 acres of land there are approximately 3 acres being used for agricultural purposes (vegetable and ornamental plant nursery), and 2 acres for driveways, the residence and surroundings, the farm accessory building (in which 1/3 is dedicated to vegetable production - cleaning, sorting, and packaging), 500 linear feet of irrigation ditch, a pump house, and a composting area. Approximately two years later, Mr. Hofer began leasing the land.

#### *Proposed Increase to Agricultural Activity*

In order to expand onto the remaining 0.75 – 1.0 acres of land to maximize agricultural use, Mr. Markewich has been researching various options. Using the actual soil on this remaining area is



not an option. Thoughts of doing year round production of vegetables and mushrooms in shipping containers is sitting at the top of his list as 100% of Kelowna produce comes from foreign countries during the winter. Also of interest is a small but very focused business to produce the high biological life compost which would be used to increase the fertility of the soil. This, is in sharp contrast to other available composts which are void of and quantity of biological diversity are simply used to amend soil. This is something that is not done anywhere else in the Okanagan and is the key to unlocking a far more safe, sustainable and nutrient rich food source (Mr. Hofer has done extensive research on this subject).

Last, but not least, will be the expansion of the ornamental plant nursery that will focus primarily on deer resistant and native plants.

#### *The "Trickle Effect" of Immediate Compliance*

Creative Roots and their owners have a great respect for the opinions of others. The City of Kelowna is certainly no exception. The owner was born, raised, and still lives with his family on the property directly to the North. His father built the house located on the farm for the original owner in 1970 and he, knowing that this will be a farm land for generations to come, invested a lot of time and capital into turning it into a place he and the community are proud of.

It has taken years to get to this point of agricultural use and it would not have been possible without the support from the landscape business. It will take another 5 years to ensure the new and expanded ventures will be successful in a sustainable way. If there is a reputation attached to either Wise Earth or Creative Roots it is one of accuracy, high quality, community and the betterment of all persons associated with every dealing.

If the land is not able to continue as is for the years it will take to properly expand agricultural use there is a very real threat of not expanding and losing what has been created here. It is imperative that the properties operations contribute and cover the cost of operation. Expansion will take further capital and more time. If the owner is not given adequate time to see these goals to their end, the reality is that he will most likely be forced to sell the land and give no guarantee to Wise Earth nor Creative Roots.

Land for commercial use to rent or purchase has become unattainable in Kelowna. There is little hope the farmer could purchase the property and would be put out of business. The good people of Creative Roots would also have a massive cultural shift. A comparative space to operate this small business will cost in the neighbourhood of 2-3 times what it cost where it is. It will add to more traffic congestion in areas where the zoning is.

For 10 years Creative Roots has taken the position that to create a truly amazing culture within its organization it would have to grow internally, create a business of business minded people by including all involved in the all aspects of running the business. They have purposely and strategically built a culture of high involvement and transparency based on the operating principle of Open Book Management. This style has all staff involved in planning; budgeting, creating, meeting and sharing in the outcome win or lose with a proven profit share program that is discussed and updated on a weekly basis. Every Thursday at 4:30 for the past 8 years the team at Creative Roots meets for 1 hour to discuss the company's health, do financial literacy training and discuss actions that will keep them on target with all aspects of their annual plan to be profitable and build strong relationships with each other, their clients, sub-contractors, suppliers,



community, etc... During this time every staff member has chosen to donate the 1-hour meeting time to the company and in turn the company then donates to those who are less fortunate in our community. Through cash and the value time donated during yearly in-kind events they have given back in excess of \$125,000 to charities like the KGH Foundation, HOPE Outreach, Okanagan Boys and Girls Club, BC Easter Seals, Arion Farms and about 40 others. Recently they have created an amazing give back initiative called Yard Angels. The effort that this company goes to be an active part of bettering others is truly outstanding. I encourage you to have a look for yourself at what they are doing.

<http://www.creativerootslandscaping.com/giveback>

Creative Roots is able to make such efforts for many reasons, which will not be possible if the business is forced to move, or shut down, in the short term. These reasons include:

- 1) Creative Roots keeps overhead expenses in check and in turn spend money where it is better used - to build the strongest relationships possible within their team and every person they come into contact with. Increasing overhead during this stage of business and their long-term planning will have a trickle effect that will affect many negatively; and
- 2) Spending many years of profit to purchase or lease a comparative property will only benefit the owner of such land and in turn result in decreased profit share compensation for the staff, reduced ability to remain as generous with local charities and the needed capital to invest into the expansion of agriculture.

### **Application Package**

Please find the following documents submitted with this letter:

- Temporary Use Permit Application
- Title and Two Covenants
- Letter of authorization
- Application fee
- Site Profile
- Site Concept Plan
- Photos and Site Maps (4)

Thank you for your time and consideration. If you have any questions, please do not hesitate to contact the undersigned.

Regards,

A handwritten signature in blue ink, appearing to read 'Ryan Anderson'.

Ryan Anderson, Project Manager  
OTG Development Concepts  
Phone: 604-217-7953  
Email: [ryan.anderson@otgdevelopments.com](mailto:ryan.anderson@otgdevelopments.com)



## Attachment C – Letter from the Ministry of Agriculture



March 7, 2019

File: A19-0003

City of Kelowna  
1435 Water Street  
Kelowna BC V1Y 1J4  
E-mail: [planninginfo@kelowna.ca](mailto:planninginfo@kelowna.ca)

Re: ALC Non-Farm Use Application A19-0003 Temporary Use Permit (TUP)

To the City of Kelowna,

Thank you for providing the B.C. Ministry of Agriculture the opportunity to comment on the Agricultural Land Commission non-farm use application at 3019 Leader Road. I have reviewed the documents you have provided. From an agricultural perspective I can provide the following comments for your consideration:

- The parcel is located within the Agricultural Land Reserve (ALR), a provincial zone in which agriculture is recognized as the priority use; where farming is encouraged and non-agricultural uses are restricted.
- Ministry staff note that the property owners appear to have undertaken significant and positive efforts to bring the lands at this location into agricultural productivity within the last few years.
- The application details describing how the landscape business' proposed extension may be advantageous are acknowledged. Ministry staff however have concerns regarding this businesses' proposed temporary nature to continue operating, required duration on the site, and potential impact on the parcel's agricultural viability.

If you have any questions please contact me directly at [christina.forbes@gov.bc.ca](mailto:christina.forbes@gov.bc.ca) or 250-861-7201.

Sincerely,



Christina Forbes, P.Ag  
Regional Agrologist  
B.C. Ministry of Agriculture – Kelowna  
Office: (250) 861-7201  
E-mail: [christina.forbes@gov.bc.ca](mailto:christina.forbes@gov.bc.ca)  
Email copy: ALC Planner, [ALC.Okanagan@gov.bc.ca](mailto:ALC.Okanagan@gov.bc.ca)