

COUNCIL REPORT



Date: July 15, 2019

RIM No. 1250-04

To: Council

From: City Manager

Application: TA19-0001 / A19-0006 **Owner:** G. P. Sandher Holdings Ltd.

Address: 839 Hartman Road **Applicant:** Bir Sandher

Subject: Zoning Bylaw Text Amendment & Agricultural Land Commission (Non-Adhering Residential Use) Applications

1.0 Recommendation

THAT Zoning Bylaw Text Amendment Application No. TA19-0001 to amend the City of Kelowna Zoning Bylaw No. 8000 as outlined in Schedule "A" attached to the Report from the Development Planning Department dated July 15, 2019 for Lot 2, Section 25, Township 26, ODYD, Plan 29183 Except Plan KAP58413, located at 839 Hartman Road, Kelowna, BC, NOT be considered by Council;

AND THAT Agricultural Land Reserve Appeal No. A19-0006 for Lot 2, Section 25, Township 26, ODYD, Plan 29183 Except Plan KAP58413, located at 839 Hartman Road, Kelowna, BC, for a non-adhering residential use in the Agricultural Land Reserve pursuant to Section 20.1(2)(a) of the *Agricultural Land Commission Act* NOT be supported by Council;

AND FURTHER THAT Council directs Staff NOT to forward the subject application to the Agricultural Land Commission for consideration.

2.0 Purpose

To consider a Staff recommendation to NOT support a Text Amendment to the Zoning Bylaw and a Non-Adhering Residential Use application to the Agricultural Land Commission that would facilitate temporary farm worker housing for up to 60 temporary farm workers on the subject property, which would result in a total of up to 189 temporary farm workers for a single farm unit located within the same City Sector.

3.0 Development Planning

Development Planning staff recommend that the text amendment and non-adhering residential use applications to facilitate temporary farm worker housing (TFWH) for up to 60 temporary farm workers at 839 Hartman Road not be supported. Staff are recommending non-support for the application due to the fact the farm unit is already significantly exceeding the maximum allowable amount of farm workers per City Sector. The proposed application would result in a total of up to 189 temporary farm workers for a single farm unit located within the same City Sector. The property owners have previously been granted approval for 129 workers within the same Sector prior to Council adopting new regulations related to TFWH in 2017.

The City's Zoning Bylaw limits the amount of housing for temporary farm workers per farm unit in each City Sector to avoid an excessive concentration of workers in agricultural areas that lack amenities such as shops, services, parks, and access to transit. If approved, the amendment would increase the amount of farm worker accommodations in the Rutland City Sector. This currently has the highest concentration of TFWH in the City, with approximately 231 units of existing TFWH located across three farm units. In comparison, the McKinley City Sector has 180 units of TFWH, and the Belgo-Black Mountain Sector has 60 units of TFWH.

The subject site is also undersized in relation to the number of farm workers proposed. In addition to the request to increase the number of workers per City Sector, a text amendment is required to increase the amount of TFWH permitted on the subject site. The Zoning Bylaw only allows for 40 workers on parcels less than 8.0 ha, provided that all other regulations are met. The subject site is 7.8 ha; therefore, a text amendment is required to increase the number of worker accommodations on the parcel from 40 to 60.

4.0 Proposal

4.1 Background

The applicants currently farm 377 acres of apples and 546 acres of cherries on 36 properties in West Kelowna, Kelowna, Lake Country, Vernon, and Armstrong, and are intending to expand their operation. The applicants employ 350 people during the peak cherry season. At peak season approximately 71% of the farm's employees are through the Seasonal Agricultural Workers Program (SAWP); in the off season approximately 91% of staff are SAWP employees.

The applicants currently have 230 accommodations throughout the Okanagan Valley, which includes 129 beds in the City of Kelowna Rutland City Sector. The applicants have explained that they have a current shortage of housing units based on operating requirements, and as production increases they will need to house more employees.

4.2 Project Description

The proposal is to place mobile trailers on the subject site to house up to 60 temporary farm workers. Specifically, the plan includes a cluster of 11 mobile trailers in a work-camp configuration near Gibson Road. The proposed housing comprises of five bedroom/dorm trailers, two washroom trailers, two lounge/living space trailers, one mess hall/kitchen and one rec hall. A landscaping plan has not yet been provided, though a 3 m wide vegetative buffer for screening to adjacent property lines and the active farming area would be required.

The housing location is meant to minimize impacts to the existing orchard. A preliminary site plan is attached showing its location and layout. The proposed accommodation is on non-permanent foundations, which is the preferred solution where the need for farm worker housing is justified. The proposed TFWH meets the regulations of the Zoning Bylaw with the exception of the number of temporary worker accommodations permitted per parcel up to 8.0 ha in area the number permitted in each City Sector. The proposal is consistent with Ministry of Agriculture standards for TFWH with regard to the property having farm classification, minimum farm unit size, housing type, and footprint and setbacks.



Figure 1 Site Map

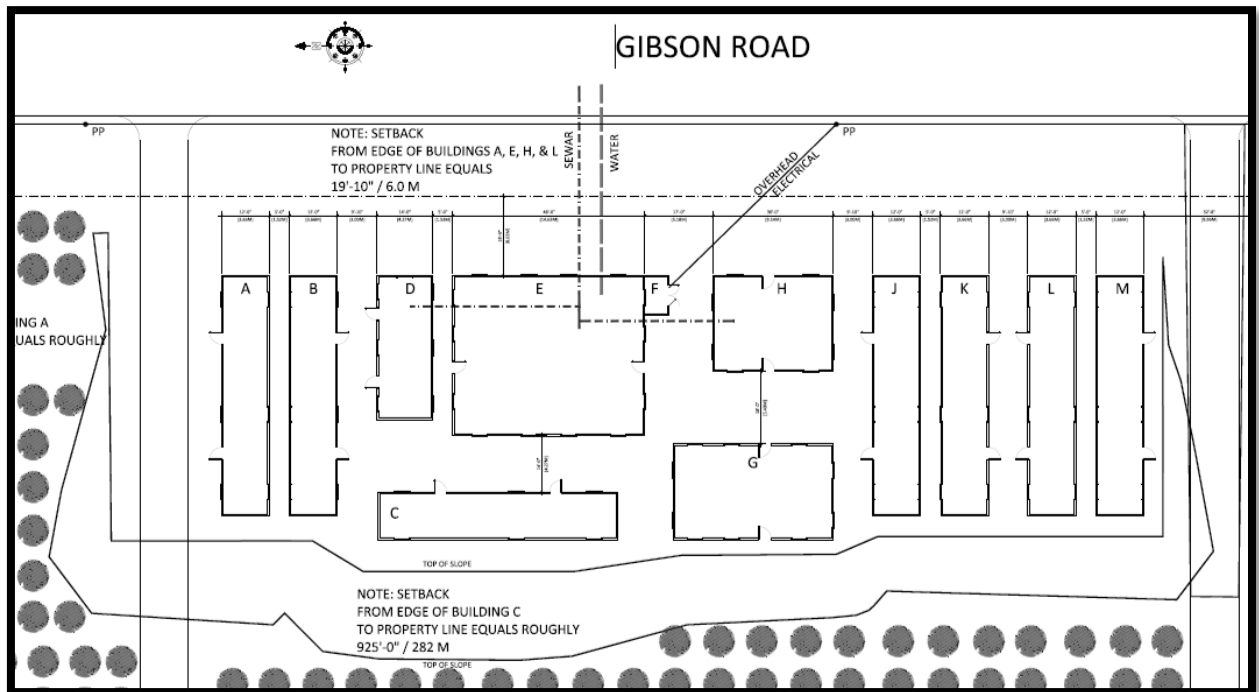


Figure 2. Site Plan

Several approvals are required for this proposal:

1. Zoning Bylaw Amendment (TA19-0001) - The property owners have applied for a site-specific text amendment to the Zoning Bylaw to allow for structures to accommodate a maximum of 60 temporary farm workers on the property, and to accommodate a maximum of 189 temporary farm workers on this farm unit in the Rutland City Sector. The property owners previously obtained approval to house up to 60 workers at a property located at 1610 Swainson Road (File FH15-0004) and 48 workers at a property located at 1090 McKenzie Road (FH14-0002) and 21 workers at 1330-1340 Latta Road (FH14-0003).

In 2017, Council adopted new regulations for Temporary Farm Worker Housing (TFWH) following consultation with the Ministry of Agriculture, the farming industry, and the public. The regulations were intended to address concerns related to:

- Potential misuse of farm worker housing;
- Loss of agricultural land;
- Changes to the agricultural landscape;
- Increased demands on municipal infrastructure; and
- A perceived 'detachment' of the workers having no connection to the community.

The regulations allow farmers to have accommodations for up to 40 temporary farm workers on parcels less than 8 ha and up to 60 temporary farm workers for parcels 8 ha or greater on farm units within each City sector. This maximum applies to each 'farm unit', which is defined as the group of parcels owned, rented, or leased by an individual farmer. This enables farmers to have multiple TFWH locations within the City but not in the same Sector of the City. The main reason for the limit on worker allocation is to avoid concentrating a large amount of workers in an otherwise agricultural or rural area where there are typically not many amenities such as transit or grocery stores. The limit on the number of farm workers per City Sector is also in place to minimize impacts such as traffic and noise on surrounding properties. It was acknowledged at the time that applications for structures to accommodate more temporary farm workers per sector would require a site specific text amendment with a demonstrated need for the added housing in that location.

2. Non-Adhering Residential Use (A19-0006) – Owners of land within the Agricultural Land Reserve are required to obtain approval from the Agricultural Land Commission for dwellings for temporary farm help where it exceeds what would be considered one dwelling unit on a property. Should Council choose to support the site specific text amendment and non-adhering residential use applications, approval from the Agricultural Land Commission would be required prior to adoption of the text amendment.
3. Temporary Farm Worker Housing Permit (FH19-0002) – A Farm Worker Housing permit must be approved by Council confirming the proposal meets the City of Kelowna regulations and guidelines related to temporary farm worker housing. Should Council choose to support the site specific text amendment and the ALC approved the non-adhering residential use, a Farm Help Permit would be brought forward for Council's consideration at a later date. In keeping with the Ministry of Agriculture's Guide to Bylaw Development in Farming Areas and the City's regulations for TFWH, the property owner would be required to register Section 219 restrictive covenants on title that generally state:
 - The TFWH will be used for temporary farm workers only;

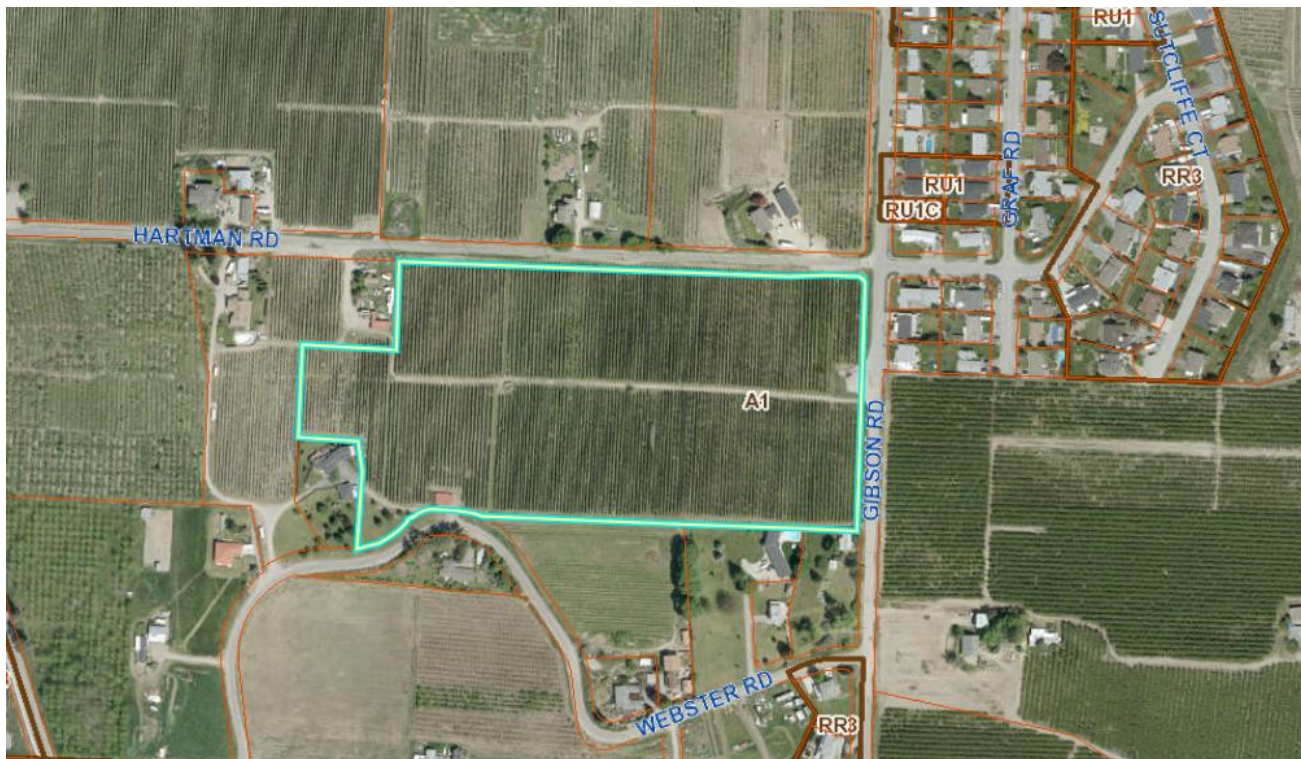
- The owner will remove the TFWH if the farm operation changes such that it is no longer required; and
- The TFWH will only be used for farm workers for a specified number of months of the year (typically a maximum of eight, though may be increased to ten).

4.3 Site Context

The subject site is a 19 acre (7.8 ha) parcel of land that fronts both Hartman Road and Gibson Road. The property is currently vacant and planted to apples. The property is designated Resource Protection Area (REP) in the City's Official Community Plan (OCP) and is zoned A1 – Agriculture 1. The property is located within the ALR and outside of the Permanent Growth Boundary. There is a sanitary sewer main along the frontage of the property; therefore, the dwellings would be able to connect to the sanitary sewer system and would not require a private septic system.

The subject property lies within the Rutland City Sector. The adjacent properties are zoned A1 and within the ALR. There is an existing residential area across Gibson Road to the east of the subject site that is not in the ALR. This neighbourhood is designated S2RES – Single/Two Unit Residential and mostly zoned RR3 - Rural Residential 3. The properties to the south of the site are A1 and within the ALR but are undersized lots ranging in size from 1,800 sqm (½ acre) to 3 acres. The areas to the west and north of the subject site are actively being farmed.

Subject Property Map: 839 Hartman Road



5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Chapter 5: Development Process

Objective 5.34 Preserve Productive Agricultural Land

Policy .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 Guidelines

Guideline 1.8 Design Temporary Farm Worker 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 (2017):

- 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.

6.0 Technical Comments

6.1 Development Engineering Department:

- See attached Memorandum.

7.0 Application Chronology

Date of Application Received: January 7th 2019
Date Public Consultation Completed: May 6th 2019
Agricultural Advisory Committee May 9th 2019

The above noted application was reviewed by the Agricultural Advisory Committee at the meeting held on May 9th 2019 and the following recommendation was **defeated**:

THAT the Agricultural Advisory Committee recommends that Council support Agricultural Land Reserve Application No. A19-0006 for the property located at 830 Hartman Road to allow a non-adhering residential use permit application for Temporary Farm Worker Housing to accommodate up to 60 workers on the property.

The following anecdotal comments from the Agricultural Advisory Committee were provided:

- *The Agricultural Advisory Committee recommends that Council direct staff to work with the applicants on all housing options including existing dwellings on properties they own or manage including properties they own outside of the Rutland City Sector.*
- *The Committee understands there are at times exceptional causes that require making decisions that are not consistent with City policy. The Committee does not see justification in this application being an exceptional case at this time.*
- *The applicant should also be expected to do their due diligence to rationalize the need for the application.*

8.0 Alternate Recommendation

THAT Zoning Bylaw Text Amendment Application No. TA19-0001 to amend City of Kelowna Zoning Bylaw No. 8000 as outlined in Schedule 'A' attached to the Report from the Development Planning Department dated July 15, 2019 for Lot 2, Section 25, Township 26, ODYD, Plan 29183 Except Plan KAP58413, located at 839 Hartman Road, Kelowna, BC, be considered by Council;

AND THAT the Zoning Bylaw Text Amending Bylaw be forwarded to a Public Hearing for further consideration;

AND THAT Agricultural Land Reserve Appeal No. A19-0006 for Lot 2, Section 25, Township 26, ODYD, Plan 29183 Except Plan KAP58413, located at 839 Hartman Road, Kelowna, BC, for a non-adhering residential use in the Agricultural Reserve pursuant to Section 20.1(2)(a) of the *Agricultural Land Commission Act*, be considered in conjunction with the Zoning Bylaw Text Amending Bylaw at a Public Hearing;

AND FURTHER THAT final adoption of the Text Amending Bylaw be considered in conjunction with Council's consideration of Farm Worker Housing Permit (FH19-0002) for the subject property.

Report prepared by:	Alex Kondor, Planner Specialist
Reviewed by:	Laura Bentley, Urban Planning & Development Policy Manager
Reviewed by:	Terry Barton, Development Planning Department Manager
Approved for Inclusion:	Ryan Smith, Divisional Director, Planning & Development Services

Attachments:

Attachment A – Site Plan

Attachment B – Development Engineering Memorandum

Schedule A – Zoning Bylaw Text Amendments