

COMMITTEE REPORT



Date: August 8th, 2019

RIM No. 1210-21

To: Agricultural Advisory Committee (AAC)

From: Development Planning Department (AT)

Application: A19-0009 **Owner:** Balwinder S. Baring, Harpreet K. Baring, Sukhwinder S. Baring, Gurpreet K. Baring

Address: 298 Cornish Road **Applicant:** Balwinder Baring

Subject: Application to the ALC for a non-adhering residential use

1.0 Purpose

To consider a non-adhering residential use permit application to allow a principal residence with total floor area greater than 500m² (653m²) on the property located at 298 Cornish Road.

2.0 Proposal

2.1 Background

On February 22, 2019 the Agricultural Land Commission (ALC) introduced new regulations pertaining to residential uses on land in the Agricultural Land Reserve (ALR). As part of the new regulations the ALC has restricted principal residences to 500m² total floor area (ALCA s. 20.1(1)(b)). New residences proposed to be greater than 500m² now require an application for a non-adhering residential use permit (see Attachment A). The only exception is as follows: an application for a primary residence greater than 500m² that received a Building Permit by February 22, 2019 is exempt from requiring a non-adhering residential use permit provided construction begins by November 5, 2019.

The subject property at 298 Cornish Rd. is 3.7 hectares (9.3 acres) and is vacant. The property is owned by the Baring family, and they have farmed the land since purchasing it in 2017. There are 4 owners on Title: Harpreet Baring, her husband Balwinder Baring, Balwinder's brother Sukhwinder Baring, and his wife Gurpreet Baring. The Barings also own a property approximately ½ km to the east at 625 Cornish Rd., which they also farm, and where they live in a single family home; the home has 3 bedrooms and is approximately 370m². Also living in the home are Balwinder and Sukhwinder's parents, as well as Balwinder and Harpreet's child, and Sukhwinder and Gurpreet's 2 children (9 family members total). The Baring's have owned and farmed the property at 625 Cornish Rd. since 2006.

Both Balwinder and Harpreet; and Sukhwinder and Gurpreet are intending to grow their families. In order to accommodate their growing family, the Barings plan to build a new home at 298 Cornish Rd. and sell the property at 625 Cornish Rd. The floor area of the proposed home is 653m² according to the ALC's definition

of 'net floor area', which includes garage space over 42m² (the proposed home is 574m² when no garage space is included) (see Attachment B, Section 11. Glossary).

The Barings had their proposed home designed between September and November 2018, 6 months before the ALC instituted their new rules regarding the maximum size of a principal residence on February 22, 2019. The Barings did not submit a building permit application at once, as they yet had to register a residential footprint covenant on Title (as per Section 11.1.6(c) of Zoning Bylaw No. 8000), which was completed on March 19, 2019.

2.2 Project Description

The applicant proposes to construct a new single family home with secondary suite on the subject property. The floor area of the proposed home is 653m² according to the ALC's definition of 'net floor area', which includes garage space over 42m² (the proposed home is 574m² when no garage space is included).

The proposed home has a residential footprint of 551m² and is entirely within the 2000m² residential footprint area registered on Title. The 2000m² residential footprint area is at the southeast corner of the lot, adjacent to Cornish Rd., in an area of the property that minimizes the residential impact to agriculture (see Attachment C).

2.3 Site Context

The subject property is 3.7ha (9.3 acres) and is vacant, but is planted with treefruits including cherries and berries.

2.4 Neighbourhood Context

The Subject property is on Cornish Rd. approximately 200m east of Rutland Rd. N at the north end of the Rutland Sector. The property is zoned A1 – Agriculture 1 and is in the Agricultural Land Reserve (ALR), as are all surrounding properties.

Map 1 - Neighbourhood



3.0 Development Planning

The ALC has restricted the total floor area of a principal residence to 500m² for the following reason:

To “End[] the proliferation of large mansions and lifestyle estates in the ALR which inflate land prices and place agricultural land out of the reach of current and new farmers and ranchers” (ALC Website, “The ALC Act and ALR Regulations”, Accessed July 24, 2019) (see also Attachment E).

At the same time, the Ministry of Agriculture has recognized the important role that multigenerational farming families play in agriculture, and acknowledge that large farming families may need additional living space over and above that listed in the regulation. In a press release issued on February 23, 2019 (one day after the new regulation took effect) the Ministry issued the following quote:

“Multigenerational farming families are the backbone of agriculture throughout B.C.” / “...we’re supporting larger farming families by ensuring that those who need extra living space to support their farming operations have a path forward at the ALC to build a larger home” (see Attachment D).

For its part, the City of Kelowna Agriculture Plan (2017) recommends investigating the adoption of a maximum total floor area for a principal dwelling in the A1 zone based on Ministry of Agriculture guidelines (Table 3, ID1.3b). The reason offered for pursuing such an investigation is to address the concern of “the purchase of farmland with no intention of farming, followed by construction of significantly large homes” (Agriculture Plan, p. 15). In this case, the applicant (the Baring family) has been farming land in the area since 1999, and has every intention of continuing to farm the land into the future. The large size of the proposed home is to accommodate a large and growing family dedicated to farming. The Agriculture Plan is silent regarding multigenerational farming families.

In this case, it is also worthy of consideration that the Barings had commissioned the design of their proposed home prior to the new regulations regarding non-adhering residential uses coming into effect. The ALC has made provision for grandfathering, but this provision requires that any proposal would have had to have had a building permit by the day the regulations came into effect. This does not cover applicants who may have incurred design costs in the period immediately prior to the regulations coming into effect who were not able to apply for a building permit by the time the regulations did come into effect, which is the case here.

Report prepared by:

Aaron Thibeault, Planner II

Approved for Inclusion:



Dean Strachan, Community Planning & Development Manager

Attachments:

Attachment A – Policies

Attachment B – ALC Information Bulletin 5: Residences in the ALR

Attachment C – Residential Footprint Area Plan & Site Plan

Attachment D – Ministry of Agriculture Press Release, February 23, 2019

Attachment E – Ministry of Agriculture Referral Comments

ATTACHMENT A - Policies



Subject: 298 Cornish Road, A19-0009

Agricultural Land Commission Act (ALCA)

Purposes of the commission – Section 6

The following are the purposes of the commission:

- (a) to preserve agricultural land;
- (b) to encourage farming on agricultural land in collaboration with other communities of interest;
- (c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

Residential use of agricultural land – Section 20.1

- (1) Unless permitted under section 20.2, 25 or 45 or the regulations, an owner of agricultural land who constructs, alters or uses a residential structure on the agricultural land must comply with all of the following:
 - (b) the total floor area of a principal residence must be 500m² or less
- (2) an owner may apply
 - (a) to the commission for permission under section 25 for a non-adhering residential use