

# COMMITTEE REPORT



**Date:** August 8, 2019

**RIM No.** 1210-21

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

**From:** Development Planning Department (AJ)

**Application:** A19-0011      **Owner:** Sukhjit Singh Sidhu and  
Bhupinder Kaur Sidhu

**Address:** 2568 KLO Road      **Applicant:** Benson Law LLP

**Subject:** Application to the ALC for Non-Adhering Residential Use – Additional Residence for  
Farm Use

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## 1.0 Purpose

The applicant is requesting permission from the Agricultural Land Commission to use an existing secondary dwelling on the subject property as temporary farm worker housing to accommodate six (6) temporary farm workers.

## 2.0 Proposal

### 2.1 Background

The proposal aims to legitimize the use of an existing dwelling on the subject property as temporary farm worker housing (TFWH). This proposal requires two approvals:

1. Non-Adhering Residential Use Permit (A19-0011) – Owners of land within the Agricultural Land Reserve (ALR) are required to obtain approval from the Agricultural Land Commission for dwellings to be used for TFWH.
2. Farm Worker Housing Permit (FH18-0002) – A Farm Worker Housing permit must be approved by Kelowna City Council to confirm that the proposal meets City of Kelowna regulations related to TFWH.

Sukhjit and Bhupinder Sidhu (the Sidhus) purchased the subject property in 2016, and at that time the subject property had three dwellings on it: dwelling 1 built in 2001, dwelling 2 built in 1979, and dwelling 3 built in 1970 (Map 1). There is also a large shed for farm use on the property east of dwelling 3. Historically, dwelling 2 was permitted to be built on the condition that one dwelling would be used for farm help or family only as per an affidavit signed in 1979 by a previous owner. Affidavits do not run with the land, and therefore the affidavit that was signed in 1979 is no longer applicable to this property. In 2001, dwelling 1 was permitted to be built on the condition that one dwelling be demolished or decommissioned. Neither dwelling 2 nor dwelling 3 was decommissioned as per the conditions outlined in these past building permits. Overall, the property has a history of Bylaw investigations and non-conformance.

Development Planning staff and the Sidhus were in contact regarding the subject property prior to the Sidhu's purchase of the property. The Sidhus were made aware that only the newest dwelling (dwelling 1) is permitted, and that the other two dwellings on the property are unpermitted, non-conforming. After meeting with Development Planning staff to discuss options for bringing the subject property into compliance with City Bylaws, the Sidhus applied for a farm help permit for dwelling 2. The decommissioning of dwelling 3 was a requirement of this farm help permit application and was completed in 2018 as per BP 59188. As per Agricultural Land Commission (ALC) regulations now in place, the TFWH proposed in this application is considered a non-adhering residential use (additional residence for farm use) and therefore must seek ALC approval.

**Map 1: Subject Property Overview**



**2.2 Site Context**

The subject property is 3.86 ha (9.57 acres) in size and is located between Hall Road and East Kelowna Road in the Southeast City Sector of Kelowna. As per Maps 2 – 4 below, the subject property is zoned A1 – Agriculture, is located within the Agricultural Land Reserve (ALR), is located outside of the Permanent Growth Boundary, and has a Future Land Use Designation of REP – Resource Protection Area. The area surrounding the subject property is predominantly agricultural, with single dwelling housing and outdoor participant recreation services also in proximity. Adjacent land uses are listed in Table 1.

**Table 1: Zoning and Land Use of Adjacent Properties**

Direction	Zoning	ALR	OCP Designation	Land Use
North	A1	Yes	REP	Agriculture, Single Dwelling Housing
East	A1	Yes	REP	Agriculture
South	A1, P3LP	Yes	REC, REP	Participant Recreation Services, Outdoor
West	RR3	No	REP, S2RES	Single Dwelling Housing

**3.0 Development Planning**

This application is in general accordance with municipal and provincial guidelines as indicated in Attachment A. As per Section 9.13.2 of the Zoning Bylaw No. 8000, the TFWH footprint may not exceed 0.20 ha (2000 m<sup>2</sup>) for structure(s) to accommodate a maximum of forty temporary farmworkers. The footprint of dwelling 2 is approximately 257 m<sup>2</sup>. Additionally, this application proposes TFWH on a parcel

where agriculture is the principal use, aligning with the City's Farm Help Housing Policy. The application also meets OCP Farm Protection DP Guideline 1.8 which states that existing dwellings within the farm unit should be used for TFWH rather than building new housing. The buildings and structures on the subject property also are located within 50m of KLO Road in a somewhat contiguous layout with some small pockets of vegetation in between the structures.

As per Table 2, the total farm unit area<sup>1</sup> owned and/or operated by the Sidhus is approximately 31 hectares, meeting the minimum farm unit size for TFWH which is 4 hectares. One property within the farm unit, located at 1605 Geen Road, was previously approved for TFWH. The Sidhus have demonstrated the need for temporary farm workers by completing a Labour Market Impact Assessment through the federal government permitting the Sidhus to hire six temporary foreign workers through the agriculture stream. Employment contracts for the six temporary foreign workers have been provided, meeting City of Kelowna policies for Farm Help Housing and requirements outlined in section 9.13.1 (c) of the Zoning Bylaw.

**Table 2: Farm Unit Parcels**

Address	Farmed Hectares	Summary	City Sector
1605 Geen Rd	3.88	Sidhus are joint owners; TFWH granted (FH09-0003)	Belgo-Black Mountain
1865 Belgo Rd	4.17	Sidhus are joint owners	Belgo-Black Mountain
2568 KLO Rd	2.55	Subject property	Southeast Kelowna
1591 Saucier Rd	3.40	Sidhus manage farming as per an orchard agreement expiring in 2019	Southeast Kelowna – covenant restricting TFWH required
3288 Reid Rd	6.68	Sidhus manage farming as per an orchard agreement expiring in 2035	Southeast Kelowna – covenant restricting TFWH required
4201 Spiers Rd	3.12	Sidhus manage farming as per an orchard agreement expiring in 2022	Southeast Kelowna – covenant restricting TFWH required
2190 Gulley Rd	3.52	Sidhus manage farming as per an orchard agreement expiring in 2025	Southeast Kelowna – covenant restricting TFWH required
1390 Geen Rd	2.99	Sidhus manage farming as per an orchard agreement expiring in 2033	Belgo-Black Mountain
1601 Saucier Rd	1.00	Sidhus manage farming as per an orchard agreement expiring in 2019	Southeast Kelowna – covenant restricting TFWH required
	<b>Total: 31.31 ha</b>		

As per Section 9.13.3 of Zoning Bylaw, structure(s) to accommodate a maximum of 40 temporary farm workers are permitted per city sector for parcels up to eight hectares. Should all approvals necessary for this proposal be obtained, the number of temporary foreign workers able to be housed on other parcels of the farm unit also within the Southeast Kelowna city sector would be limited through the registration of restrictive covenants. Additionally, the applicants would be required to file a statutory declaration with the City annually stating that the building will be used only for TFWH for 10 months during the year (approximately February – November), which is compliant with section 9.13.1(f) of the Zoning Bylaw.

**Report prepared by:** Arlene Janousek, Planner

**Reviewed/Approved for Inclusion by:** Dean Strachan, Suburban and Rural Planning Manager

**Attachments:**

Attachment A: Policies

Attachment B: Site Plan

<sup>1</sup> One or more contiguous or non-contiguous parcels, that may be owned, rented or leased, within City limits, which forms and is managed as a single farm.