

REPORT TO COUNCIL



Date: September 9, 2019

To: Council

From: City Manager

Department: Development Planning – Suburban, Rural

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 Recommendation

THAT Agricultural Land Reserve Appeal No. A19-0009 for Lot 45 Section 35 Township 26 ODYD Plan 425, located at 298 Cornish Road, Kelowna for a non-adhering residential use in the Agricultural Land Reserve pursuant to Section 20.1 of the *Agricultural Land Commission Act*, be supported by Council;

AND THAT the Council directs Staff to forward the subject application to the Agricultural Land Commission for consideration.

2.0 Purpose

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

3.0 Development Planning

Development Planning supports the non-adhering residential use application for a principal residence with total floor area greater than 500m².

The owners of the subject property are part of a multigenerational farming family (The Barings) that includes 9 family members and is growing. The Barings have owned farmland in the area since 2006 and have been farming in the area since 1999. In order to accommodate a growing family, the Barings propose to construct a new home on the subject property, which they own and farm. Given just the size of the existing family, the living space per person afforded by the proposed home is generally consistent with the living space that the average Canadian enjoys (estimates for the square meters of living space per Canadian range between 57m² to 72m²).

The Barings had their proposed home designed between September and November 2018, prior to the date the Agricultural Land Commission (ALC) introduced new regulations limiting the size of a principal residence in the Agricultural Land Reserve (ALR), which occurred on February 22, 2019.

The Agricultural Advisory Committee (AAC) recommends that Council not support the non-adhering residential use application on the grounds that other design options may be tried to allow the home to fit within the regulated size.

Development Planning acknowledges the AAC's recommendation and rationale; however, because the living space per person afforded by the proposed home is generally consistent with what Canadians enjoy, and because the applicant had their proposed home designed before the ALC introduced their new regulations, staff consider it an undue hardship to require the applicant to abide by the ALC's regulations in this instance.

4.0 Proposal

4.1 Background

On February 22, 2019 the ALC introduced new regulations pertaining to residential uses on land in the 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. 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 substantially begins by November 5, 2019 (see Attachment A).

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 A, Section 11. Glossary) (for floor plans of the proposed home see Attachment D).

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 immediately, 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.

4.2 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).

4.3 Site Context

The subject property is 3.7ha (9.3 acres) and is vacant, but is planted with treefruits and nursery plants.

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

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	A1 – Agriculture 1	Farm
East	A1 – Agriculture 1	Farm
South	A1 – Agriculture 1	Farm
West	A1 – Agriculture 1	Farm

Subject Property Map: 298 Cornish Rd.



5.0 Applicable Acts & Policies

5.1 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

5.2 Kelowna Agriculture Plan

Table 3. Zoning Bylaw updates: detailed actions

ID 1.3b: Investigate adopting a maximum home (principal dwelling) total floor area within the A1 zone based on Ministry of Agriculture guidelines, and other zones that may also be in the ALR. Timeframe: Short; Priority: High.

Additional discussion of applicable Acts and Policies:

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 B).

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.

6.0 Technical Comments

6.1 Ministry of Agriculture

- See Attachment E

6.2 Interior Health

- See Attachment F

6.3 Regional District of Central Okanagan (RDCO)

- See Attachment G

6.4 Development Engineering Department

- See Attachment H

7.0 Application Chronology

Date of Application Received: May 30, 2019

Agricultural Advisory Committee August 8, 2019

The above noted application was reviewed by the Agricultural Advisory Committee at the meeting held on August 8, 2019 and the following recommendations were passed:

THAT the Agricultural Advisory Committee recommends that Council not support Agricultural Land Reserve Application No. A19-0009 for the property located at 298 Cornish Road to allow for a principal residence with an area greater than 500 square metres.

Report prepared by: Aaron Thibeault, Planner II

Reviewed by: Dean Strachan, Community Planning & Development Manager

Approved for Inclusion: Terry Barton, Development Planning Department Manager

Attachments

Attachment A: ALC Information Bulletin 05: Residences in the ALR

Attachment B: Ministry of Agriculture Press Release (February 23, 2019)

Attachment C: Residential Footprint Covenant Area & Site Plan

Attachment D: Floor Plans & Floor Area Breakdown

Attachment E: Ministry of Agriculture Comment

Attachment F: Interior Health Comment

Attachment G: Regional District of Central Okanagan (RDCO) Comment

Attachment H: Development Engineering Comment