

AAC COMMITTEE REPORT



Date: December 12th 2019

RIM No. 1210-21

To: Agricultural Advisory Committee (AAC)

From: Development Planning Department (AK)

Application: Non-Adhering Residential Use **Owner:** Gian & Kuldip Jaswall

Address: 3183 Dunster Road **Applicant:** Gian Jaswal

Subject: Application to the ALC for Non-Adhering Residential Use Permit

1.0 Purpose

The applicant is requesting permission from Agricultural Land Commission to allow for a 650sqm single detached house and to allow for the delayed demolition of an existing single detached house to allow for the existing single detached house to be occupied during the construction of the proposed 650sqm single detached house.

2.0 Proposal

2.1 Background

The subject site at 3183 Dunster Road is a 10 acre agricultural parcel located near the intersection of Dunster Road and East Kelowna Road. There is an existing single detached house on the property. There is also a carriage house and mobile home on the property. According to the applicant the carriage house is in disrepair and is not occupied. The mobile home is also not occupied the property owners considering to potentially use the dwelling to house immediate family members. The property owners are proposing to build a new single detached house and delay demolition of the existing residence until construction is complete on the new residence.

The ALC has restricted the total floor area of a principal residence to 500m² 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”. 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”

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. 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). The Agriculture Plan is silent regarding multigenerational farming families.

The ALC Act states a property owner may apply for a non-adhering residential use permit for any proposed residence larger than the 500sqm. ALC staff have also advised that a non-adhering residential use permit is required to authorize the delayed demolition of the existing residence as technically the issuance of a building permit for the proposed dwelling will result in an additional residence on land within the ALR will at least for a temporary period of time. A “non-adhering residential use” means any of the following: (a) an additional residence; (b) a principal residence having a total floor area that is more than 500 m²; (c) a use of a residential structure that contravenes the regulations.

2.2 Purpose

A preliminary site plan and house plan have been provided in support of the application (See attached Schedule A). The proposed dwelling is 2 stories, 6 bedrooms in total and includes one secondary suite. The main residence is proposed to be 5,925sqft (550sqm) the proposed suite is 1,075sqft (99sqm), the total floor area is 7,000sqft (650sqm). A 448sqft (42sqm) detached garage is also part of the proposal, as garage is detached is not included in the overall floor area of propose house.

A detailed project description has been provided in the attached ALC Applicant Submission (See attached Schedule B). The property is maintained by a multi-generational farming family (three generations) the applicants state that construction of the new residence is necessary in order to allow for the continued expansion of their agricultural operation. Following completion of the residence the existing residence will be demolished and area of the existing dwelling will be planted with high density apples. The applicant are offering to enter into a restrictive covenant to enforce the delayed demolition of the existing structure once the proposed structure is complete.

Neighbourhoods Context

The subject property lies within the East Kelowna City Sector. The adjacent properties are all zoned A1 – Agriculture and designated REP – Resource Protection Area in the Official Community Plan.

3.0 Current Development Policies

3.1 Kelowna Official Community Plan (OCP)

Chapter 5: Development Process

Objective 5.33 Protect and enhance local agriculture.

Policy 5.33.1 Protect Agricultural Land. Retain the agricultural land base by supporting the ALR and by protecting agricultural lands from development, except as otherwise noted in the City of Kelowna Agricultural Plan. Ensure that the primary use of agricultural land is agriculture, regardless of parcel size.

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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

Prepared, Reviewed, Approved for Inclusion by:

Alex Kondor, Planner Specialist

Attachments:

Attachment A – House Plans

Attachment B – ALC Application Submission