

REPORT TO COUNCIL



Date: January 20, 2020

To: Council

From: City Manager

Department: Development Department – Suburban/Rural

Application: A19-0012 and FH19-0003 **Owner:** Surinder K. Boparai and Avtar S. Boparai

Address: 1425 Morrison Road **Applicant:** Surinder K. Boparai

Subject: Application for a Non-Adhering Residential Use Permit for Temporary Farm Worker Housing

Existing OCP Designation: REP – Resource Protection Area

Existing Zone: A1 – Agriculture 1

1.0 Recommendation

THAT Agricultural Land Reserve Appeal No. A19-0012 for Lot B, Section 36, Township 26, ODYD, Plan EPP15301 located at 1425 Morrison Road, Kelowna, BC for a non-adhering residential use permit pursuant to Section 25 of the Agricultural Land Commission Act, be supported by Council;

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

THAT Council authorizes the issuance of Temporary Farm Worker Housing Permit No. FH19-0003 Lot B, Section 36, Township 26, ODYD, Plan EPP15301 located at 1425 Morrison Road, Kelowna, BC subject to the following:

1. Approval by the Agricultural Land Commission of Non-Adhering Residential Use Permit Application A19-0012;
2. The dimensions and siting of the building to be constructed on the land be in accordance with Schedule A;
3. A vegetated buffer is provided for screening to adjacent property lines and between the temporary farm worker housing and active farming areas in accordance with Schedule B;
4. The applicant be required to post with the City a Landscape Performance Security deposit in the form of a "Letter of Credit" in the amount of 125% of the estimated value of the landscape buffer, as determined by a professional landscaper;

5. Registration of a Section 219 restrictive covenant on title that states:
 - i. The dwellings will be used for temporary farm workers only;
 - ii. The owner will remove the dwellings if the farm operation changes such that if they are no longer required;
 - iii. The dwellings will only be used for farm workers for a maximum of ten (10) months of the year;
 - iv. The maximum number of accommodations permitted on this farm unit within this City sector is 60 workers; and,
 - v. The temporary farm worker housing building footprint is a maximum of 0.3ha.

AND THAT this Permit is valid for two (2) years from the date of Council approval, with no opportunity to extend.

2.0 Purpose

To consider an Agricultural Land Commission Non-Adhering Residential Use Permit and Temporary Farm Worker Housing Permit to allow for proposed temporary residences on non-permanent foundations to accommodate up to 14 temporary agricultural workers on the subject property.

3.0 Development Planning

Development Planning Staff support the application for Temporary Farm Worker Housing (TFWH) for up to 14 agricultural workers on the subject property. The proposed temporary farm worker accommodation meets the regulations of the Zoning Bylaw. The proposal is also consistent with Ministry of Agriculture standards for temporary farm worker accommodation.

The proposed application complies with City of Kelowna OCP policies on TFWH requirements. Agriculture is the principal use on the parcel. The applicant has provided Development Planning Staff with copies of federal farm worker contracts from previous years and has demonstrated that the scale of farm operations is large enough and necessary to accommodate farm employees whose residence on the farm property is considered critical to the overall operation of the farm. The proposed housing is on non-permanent foundations which is the preferred solution where the need for farm worker housing is justified and is located in an area of the property that minimizes the residential impact to agriculture.

4.0 Proposal

4.1 Background

The subject property is an active apple and cherry orchard, is approximately 22.49 acre (9.10 ha) in size and is located on Morrison Road, within the Rutland City Sector. The parcel is accessible from Morrison Road to the west and McKenzie Road to the east. The subject property is bordered by Bauer Brook to the south which defines the southern property boundary.

The property is owned and farmed by the applicant and applicant's family. In addition to the subject property, the applicant owns and operates three additional agricultural properties within the Rutland Sector, totaling 90 acres. There are currently 12 farm workers housed at the applicant's 2105 Morrison Road property and three workers are at 1995 Swenson Road property. In 2018 the applicant brought in seasonal staff under the Seasonal Agricultural Workers Program (SAWP) from Mexico.

There are three legal non-conforming accessory structures currently located within the 15 metre high water mark of the riparian area along the southern property boundary. In 2017 a principle dwelling that was located at the south-central portion of the property was destroyed by fire. In 2018, the applicant submitted a development permit application to reconstruct a single detached dwelling (DP18-0223) and install a new septic area within the footprint area of the previously destroyed dwelling. A building permit was issued in May 2019.

During a site visit on May 14, 2019, a 24ft x 40 ft (7.4 m x 12.2 m) non-permitted "ATCO" trailer and a smaller office trailer were identified on the property. The trailers were located at a pre-cleared area near the centre of the property and the larger trailer appeared to be under construction with bathroom fixtures and a kitchen area being installed. A stop work order was placed on the property and a meeting was held with the property owner. The owner submitted Non-Adhering Residential Use Permit and a Farm Worker Housing Permit applications in order to bring the property into conformance.

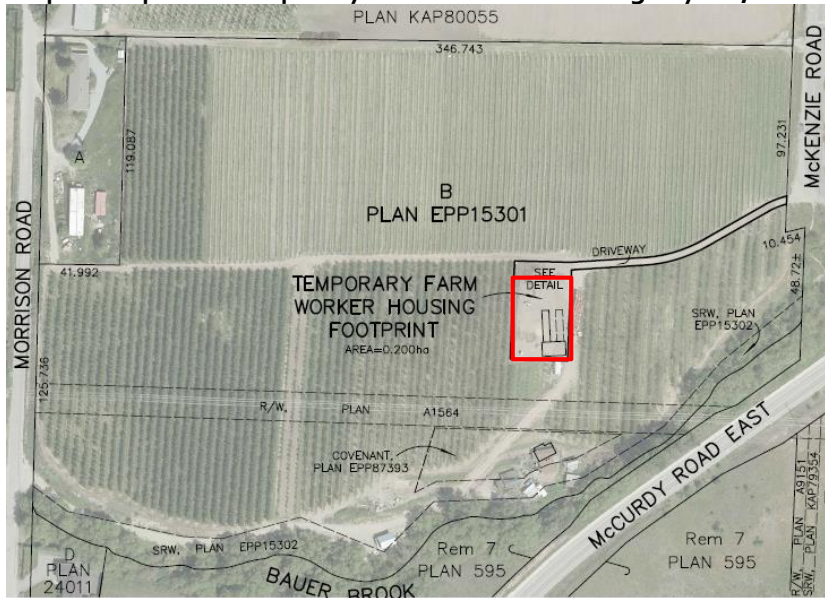
4.2 Project Description

The proposal is to place mobile trailers on non-permanent foundations on the subject property to house up to 14 temporary farm workers.

The proposed mobile configuration consists of two seven-person sleeper units and a single trailer used as a common area including kitchen, washrooms and laundry facility. The proposed housing location is on a topographically high-point of the property and at a pre-cleared area near the center of the property used to store and stage farming equipment and fruit storage crates. The proposed location is meant to minimize impact to the existing and active cherry and apple orchard. A new septic field is proposed for the TFWH. A site plan is attached showing the layout of the proposed housing. The housing is required to provide accommodation for farm help working at the subject property, however there may be some overlap with the other orchards owned by the applicant.

The applicant has provided Development Planning Staff with copies of previous year's federal farm worker application and contract for one of the other agriculture properties owned by the applicant. The applicant is proposing to apply to the Government of Canada to bring in the proposed 14 temporary farm workers under the SAWP from Mexico. In addition to the existing 15 farm workers currently located at two other properties owned by the applicant, the addition of 14 temporary farm workers at the subject property would result in a total of 29 farm workers located at the Rutland City Sector. It is anticipated that the proposed TFWH would be occupied between March and October annually.

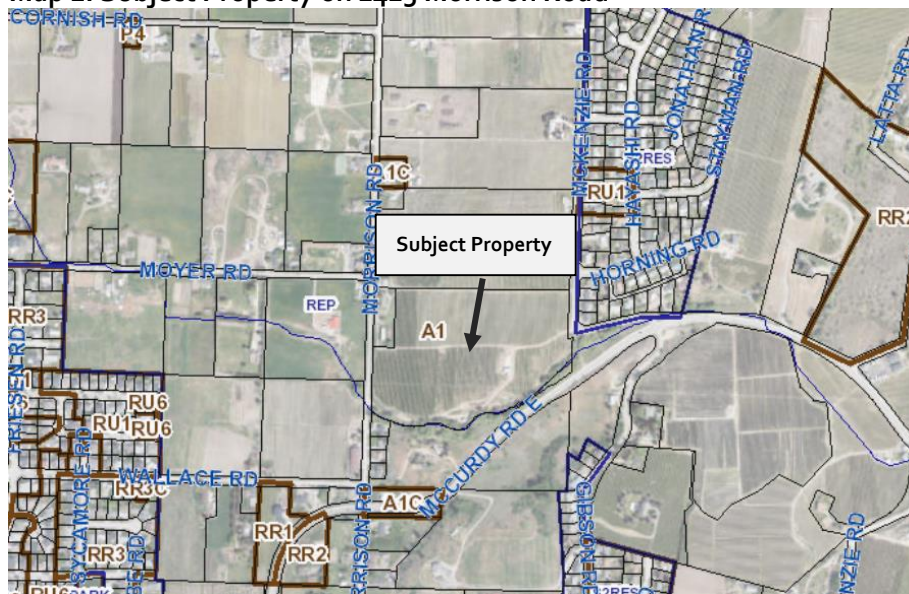
In accordance with the City of Kelowna Farm Protection Development Permit Guidelines, the application includes a landscape plan, which provides a buffer between the TFWH and the active agriculture land surrounding the housing. The landscape buffer would surround the trailers on the north, south and west sides, as shown on Schedule B. The landscape plan includes a 3.0 metre wide vegetative buffer with a variety of native tree and shrub species along the western side of the TFWH. However, due to farm vehicular activities and emergency exit doors that are located at the northern and southern ends of the trailers, a 2.5m vegetative buffer is planned for the northern and southern sides of the TFWH, and no buffer will be planted along the east side.

Map 1: Proposed Temporary Farm Worker Housing Layout, shown in red.

4.3 Site and Neighbourhood Context

The subject property is located on Morrison Road in Rutland, approximately 200 metres north of the intersection of McCurdy Road East and Morrison Road. The parcel is accessible from Morrison Road to the west and McKenzie Road to the east. The roughly rectangular shaped lot has a riparian area (Bauer Brook) along the full extent of its southern property boundary. The property is zoned A1 – Agriculture 1 and is designated Resource Protection Area (REP) in the City's Official Community Plan (OCP). The property is located with the Agricultural Land Reserve (ALR).

The area is predominantly surrounded by Agriculture lands and except for a rural residential neighbourhood located to the northwest, the surrounding lands are in the ALR. The subject property is bordered by Bauer Brook to the south.

Map 2: Subject Property on 1425 Morrison Road

5.0 Current Development Policies

5.1 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.

Objective 5.34 Preserve productive agricultural land

Policy 5.34.2 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.
- TFWH (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 Permit Guidelines.

Design TFWH such that:

- TFWH should use all existing dwellings within the farm unit, prior to building new TFWH, 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 TFWH structure.
- TFWH 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.
- TFWH should have a minimum 3 metre wide vegetated buffer for screening to adjacent property lines and between the TFWH and active farming areas.

5.2 City of Kelowna Agriculture Plan

Allow TFWH, as permitted by City of Kelowna bylaw. TFWH, 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 TFWH, including but not limited to structures for cooking, sanitary, living and sleeping. The footprint does not include the vegetated buffer.

6.0 Technical Comments

6.1 Development Engineering Department

See Attachment C, Development Engineering Memorandum.

6.2 Building and Permitting Department

Full Plan check for Building Code related issues will be done at time of Building Permit applications.

6.3 Ministry of Agriculture

See Attachment A, letter from the Ministry of Agriculture.

7.0 Application Chronology

Date of Application Received: May 27, 2019
Date of Revised, Complete Application: September 11, 2019
Date of Landscape Plans Received: November 20, 2019
Date Public Consultation Completed: December 16, 2019

Agriculture Advisory Committee December 12, 2019

The above noted application was reviewed by the Agricultural Advisory Committee at the meeting held on December 12, 2019 and the following recommendations were passed:

THAT the Agricultural Advisory Committee recommends to Council that the non-adhering residential use permit application to allow temporary farm worker housing to accommodate up to 14 workers on the property located at 1425 Morrison Road be approved.

Report prepared by: Barbara Crawford, Planner II

Reviewed by: Alex Kondor, Acting Approving Officer/Agricultural Planning Manager

Approved for Inclusion: Terry Barton, Development Planning Department Manager

Attachments:

Schedule A: Site Plan

Schedule B: Landscape Plan

Attachment A – Letter from the Ministry of Agriculture

Attachment B – ALC Non-Adhering Residential Use Application

Attachment C – Development Engineering Memorandum

Attachment D – Draft Temporary Farm Worker Housing Permit