

REPORT TO COMMITTEE



Date: December 12th 2019

RIM No. 1250-01

To: Agricultural Advisory Committee (AAC)

From: Development Planning Department (AK)

Application: A19-0017, FH19-0006, TA19-0017 **Owner:** Geen, David

Address: 2975 Gallagher Drive **Applicant:** Sellinger, Bob

Subject: Zoning Bylaw Text Amendment, ALR Non-Adhering Residential Use Permit and Temporary Farm Worker Housing Permit

Existing OCP Designation: REP – Resource Protection Area

Existing Zone: A1 – Agriculture 1

1.0 Purpose

To consider a Zoning Bylaw Text Amendment application, Non-Adhering Residential Use application to the Agricultural Land Commission, and a Farm Help Development Permit application that would facilitate temporary farm worker housing for up to 70 additional temporary farm workers on the subject property, which would result in a total of up to 130 temporary farm workers for a single farm unit located within the same City Sector.

2.0 Proposal

The proposed application would result in a total of up to 130 temporary farm workers for a single farm unit located within the same City Sector. The property owners have previously been granted approval for 60 workers within the same Sector on the subject property early in 2019 (A19-0005 AND FH19-0001). The City's Zoning Bylaw limits the amount of housing for temporary farm workers per farm unit in each City Sector to avoid an excessive concentration of workers in agricultural areas that lack amenities such as shops, services, parks, and access to transit.

If the text amendment is supported by council the applicant will also be required to obtain a 'non-adhering residential use permit' to be issued the Agricultural Land Commission and a 'Farm Help Development Permit' approved by the City of Kelowna.

The proposed temporary farm worker accommodation meets all other regulations of the Zoning Bylaw and the guidelines stated in Official Community Plan. The proposal is also consistent with Ministry of Agriculture standards for temporary farm worker accommodation. Specifically, agriculture is the principal use on the parcel, and the applicant has demonstrated that the housing is necessary to accommodate farm employees whose residence on the farm property is considered critical to the overall operation of the farm.

The proposed accommodation is on non-permanent foundations which is the preferred solution where the need for farm worker housing is justified. The proposed housing meets the needs of the farming operation and is located in an area of the property that minimizes the residential impact to agriculture.

2.1 Background

The property is farmed by Coral Beach Farms Ltd. The company currently has 930 acres of cherries planted with an additional 250 acres planned in 2020 for a total of 1,180 acres. 300 of those acres are in the City of Kelowna. The majority of land owned or leased by the company is in the Central and North Okanagan. In 2018 the company produced 3,750 tons of cherries, and upwards of 6,000 tons is expected by 2021. The cherries are currently packed at the company's facility in Carr's Landing and a new packing facility under construction on a property on Shanks Road near Highway 97 N is anticipated to be used in 2020.

Coral Beach Farms employs approximately 1,000 staff in the peak summer season. By 2023 the company expects to employ over 1,400 staff. Approximately 60% of seasonal staff are brought in under the Seasonal Agricultural Workers Program (SAWP) program from Mexico and Jamaica, with the remainder primarily being international backpackers and out-of-province Canadians.

The applicants have provided a detailed letter (attached) which states the company currently has 222 beds in City of Kelowna and 474 beds for workers in Lake Country and Vernon as they are trying to distribute their workers across the valley instead of concentrating workers in Kelowna. The proposed location is meant to be efficient and minimize impacts on farmable land as well as prevent impacts on residents living near other locations farmed and owned by Coral Beach Farms within the City of Kelowna.

The applicants have also provided a letter from an agrologist (attached) which states the proposed worker accommodation will be ideally located on this property and will have the least impact on the agricultural capability of the land base.

Effective February 22, 2019, the Agricultural Land Commission Act and the ALR Use Regulation has been amended. If a landowner wishes to have residences for temporary farm worker accommodation the landowner must submit an application to the Agricultural Land Commission, through the local government, seeking Commission approval (ALCA, ss. 20.1(2), 25). This type of application is deemed to be an "application for a non-adhering residential use". In addition to the Zoning Bylaw Text Amendment and Temporary Farm Worker Housing Permit the property owners have also applied to the ALC for a non-adhering residential use.

2.2 Project Description

The property owners have applied for permits to accommodate 70 additional workers on the subject site located at 2975 Gallagher Road which will mean up to 130 workers will be housed on the property. The subject property is zoned for A1 - Agriculture and located within the Agricultural Land Reserve (ALR). The lot is 61 hectares (151 acres) in area. Approximately 96 acres are presently planted as cherry orchard and cherry/apple tree nursery. The proposed accommodation is required in order to house seasonal workers to maintain the cherry orchard on the property and nearby orchards of Coral Beach Farms.

The application is for 70 additional beds for temporary farm worker housing (TFWH) in temporary structures on non-permanent foundations. Specifically, the proposal is to accommodate 70 additional seasonal farm workers by placing 12 'ATCO' trailers on the property. The housing will be located in two 'pods' of 6 trailers each. Each pod includes bedrooms, shared washrooms and a common kitchen area.

The trailers are located near a low-point of the property that is not being farmed as it deemed to be a frost pocket. The proposed location is not highly visible from the surrounding area. Additionally, the proposed location of the trailers is near an access easement used as a driveway to the site and is meant to minimize any potential conflicts with the orchard.

In accordance with the City of Kelowna Farm Protection Development Permit Guidelines a 3m wide landscape buffer will be required for screening to adjacent properties liens and between the temporary farm working housing and active farming areas.

Several approvals are required for this proposal:

1. Zoning Bylaw Amendment (TA19-0017) - The property owners have applied for a site-specific text amendment to the Zoning Bylaw to allow for structures to accommodate a maximum of 70 temporary farm workers on the property, and to accommodate a maximum of 130 temporary farm workers on this farm unit in the Belgo-Black Mountain City Sector. A text amendment is also required to increase the maximum Temporary Farm Worker Housing Footprint from 0.4ha to 0.95ha to accommodate the proposed structures. In 2018 the property owners obtained permission for Temporary Farm Worker Housing to house 140 workers at another location on Shanks Road (TA18-0001/FH18-0001). In 2019 the property owners obtain permission for Temporary Farm Worker Housing to house 60 workers on the subject site at 2975 Gallagher Road (A19-0017, FH19-0006, TA19-0017).

In 2017, Council adopted new regulations for Temporary Farm Worker Housing (TFWH) following consultation with the Ministry of Agriculture, the farming industry, and the public. The regulations were intended to address concerns related to:

- Potential misuse of farm worker housing;
- Loss of agricultural land;
- Changes to the agricultural landscape;
- Increased demands on municipal infrastructure; and
- A perceived 'detachment' of the workers having no connection to the community.

The regulations allow farmers to have accommodations for up to 40 temporary farm workers on parcels less than 8 ha and up to 60 temporary farm workers for parcels 8 ha or greater on farm units within each City sector. This maximum applies to each 'farm unit', which is defined as the group of parcels owned, rented, or leased by an individual farmer. This enables farmers to have multiple TFWH locations within the City but not in the same Sector of the City. The main reason for the limit on worker allocation is to avoid concentrating a large amount of workers in an otherwise agricultural or rural area where there are typically not many amenities such as transit or grocery stores. The limit on the number of farm workers per City Sector is also in place to minimize impacts such as traffic and noise on surrounding properties. It was acknowledged at the time that applications for structures to accommodate more temporary farm workers per sector would require a site specific text amendment with a demonstrated need for the added housing in that location.

2. Non-Adhering Residential Use (A19-0017) – Owners of land within the Agricultural Land Reserve are required to obtain approval from the Agricultural Land Commission for dwellings for temporary farm help where it exceeds what would be considered one dwelling unit on a property. Should Council choose to support the site specific text amendment and non-adhering residential use

application, approval from the Agricultural Land Commission would be required prior to adoption of the text amendment.

3. Temporary Farm Worker Housing Permit (FH19-0006) – A Farm Worker Housing permit must be approved by Council confirming the proposal meets the City of Kelowna regulations and guidelines related to temporary farm worker housing. In keeping with the Ministry of Agriculture’s Guide to Bylaw Development in Farming Areas and the City’s regulations for TFWH, the property owner would be required to register Section 219 restrictive covenants on title that generally state:
 - The TFWH will be used for temporary farm workers only;
 - The owner will remove the TFWH if the farm operation changes such that it is no longer required; and
 - The TFWH will only be used for farm workers for a specified number of months of the year (typically a maximum of eight, though may be increased to ten).

2.3 Site Context

The site is located outside of the Permanent Growth Boundary and within the Belgo-Black Mountain City Sector. The site is located on a portion of Layer Cake Mountain and was planted with cherries starting in 2017/18. The lot is adjacent to Mission Creek to the south and west which is designated as Park in the Official Community Plan and Zoned P₃ – Parks and Open Space. The lot is adjacent to Kirschner Mountain to the north which is designated S₂Res – Single/Two Unit Residential in the OCP and zoned A₁ – Agriculture 1. The property is accessed by easement from Gallagher Road to the east, and the location of the access easement will likely become a future road to service Kirschner Mountain development.

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.

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.
- Temporary farm worker housing (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 temporary farm working housing such that:

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

3.2 City of Kelowna Agriculture Plan

- Allow Temporary Farm Worker Housing, as permitted by City of Kelowna bylaw. Temporary Farm Worker Housing, 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 temporary farm worker housing, including but not limited to structures for cooking, sanitary, living and sleeping. The footprint does not include the vegetated buffer.

Prepared, Reviewed, Approved for Inclusion by:

Alex Kondor, Planner Specialist

Attachments:

Schedule A – Site Plan

Schedule B – Letter from Applicant

Schedule C – Agrologist Report

Schedule D – ALC Non-Adhering Residential Use Application