

REPORT TO COUNCIL



Date: March 24th 2020
To: Council
From: City Manager
Department: Development Planning (AK)
Application: Non-Adhering Residential Use **Owner:** Gian & Kuldip Jaswall
Address: 3183 Dunster Road **Applicant:** Gian Jaswall
Subject: Application to the ALC for Non-Adhering Residential Use Permit
Existing OCP Designation: Resource Protection Area (REP)
Existing Zone: A1 – Agriculture

1.0 Recommendation

THAT Agricultural Land Reserve Appeal No. A19-0013 for North ½ of South ½ of Lot 5 shown on Plan B1156, Section 15, Township 26 ODYD Plan 187, located at 3183 Dunster 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 an application to the Agricultural Land Commission to allow for a new 650sqm single detached house and to allow for the delayed demolition of an existing single detached house.

3.0 Development Planning

Development Planning staff support the non-adhering residential use application for a principal residence with a total floor area greater than 500m² and to defer the demolition of an existing single detached house until construction is complete on the new residence. The subject property is being actively farmed and maintained by a multi-generational farming family (spanning three generations). The applicants state that the construction and size of the proposed residence is an absolute necessity in order to allow for continued expansion of their agricultural operation. Following completion of construction, the existing residence will be immediately demolished, and the resulting area will be planted with high density apples, maintaining the current agricultural footprint of the parcel. The proposed deferred demolition will allow the property owners to farm the property and live in the existing residence while they construct the new residence. The

deferred demolition can be enforced at the building permit stage as a security/bond will be required to ensure the existing residence is removed.

4.0 Proposal

4.1 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. The property owners are proposing to build a new 650sqm single detached house and delay the demolition of the existing residence until construction is complete on the new residence.

Agricultural Land Commission (ALC) regulations restrict the total floor area of a principal residence to 500m² to attempt 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 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 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.

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.

4.2 Project Description

A preliminary site plan and house plan have been provided in support of the application (See attached Schedule A). The proposed dwelling is 2 storeys, 6 bedrooms in total and includes one secondary suite. A detailed project description has been provided in the attached ALC Applicant Submission (See attached Schedule B).

4.3 Site 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.

Subject Property Map:



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 5.33 Protect and enhance local agriculture.

Policy .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.

Agricultural Land Commission Act (ALCA)

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

6.o Application Chronology

Date of Application Received: July 19th 2019

Date Public Consultation Completed: N/A

Agricultural Advisory Committee December 12th 2019

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

1. *THAT the Agricultural Advisory Committee recommends that Council not support the application to allow for a 650 sq. m. single detached house on the subject property.*
2. *THAT the Agricultural Advisory Committee recommends that Council support the delayed demolition of the existing single detached house to allow for the existing single detached house to be occupied during construction;*
3. *AND THAT a restrictive covenant and bond be completed to define the terms of the delayed demolition.*

The following anecdotal comments were provided:

The AAC respects the farming practices of the multigenerational family and encourages the development of a house size that fits within the 500 sq. m. limit set by the Agricultural Land Commission.

The AAC supports what multigenerational families bring to agriculture in the community.

Report prepared by: Alex Kondor, Planner Specialist

Reviewed/Approved : Dean Strachan, Community Planning & Development Manager

Attachments:

Attachment A – Conceptual House Plans

Attachment B – ALC Application Submission