

REPORT TO COUNCIL



Date: April 6th 2020
To: Council
From: City Manager
Department: Development Planning (AK)
Application: A19-0017 **Owner:** David Geen
Address: 2975 Gallagher Drive **Applicant:** David Geen
Subject: ALC Non-Adhering Residential Use Permit
Existing OCP Designation: REP – Resource Protection Area
Existing Zone: A1 – Agriculture 1

1.0 Recommendation

THAT Council waives the requirement for a Non-Adhering Residential Use Permit to be considered in conjunction with Final Adoption of Zoning Bylaw Text Amending Bylaw No. 11983 (TA19-0017);

AND THAT Agricultural Land Reserve Appeal No. A19-0017 at Lot A, Section 12, Township 26, ODYD, Plan EPP71625 located at 2975 Gallagher Drive, Kelowna, BC for a non-adhering residential use permit pursuant to Section 25 of the Agricultural Land Commission Act, be supported by Council;

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

2.0 Purpose

To consider an Agricultural Land Commission Non-Adhering Residential Use Permit to allow for temporary farm worker housing to accommodate up to 70 additional temporary agricultural workers on the subject property.

3.0 Development Planning

On February 25th 2020 Council gave Bylaw No. 11983 second and third readings in order to amend Section 9 - Specific Use Regulations of Zoning Bylaw No. 8000 to allow for accommodation of a total of 130 temporary farm workers for a single farm unit located within the same City Sector and increase the maximum 'temporary farm worker housing footprint' from 0.3ha to 0.95ha on the subject property located at 2975 Gallagher Road.

Final adoption of the bylaw will be considered subsequent to approval from the Ministry of Agriculture. Prior to approval from the Ministry of Agriculture a 'non-adhering residential use' permit must be considered and approved by the Agricultural Land Commission. 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. An application for 70 additional units of TFWH (130 total) has been submitted.

Staff are recommending the non-adhering residential use permit be supported as, notwithstanding the proposed text amendment to increase the number workers on the subject site, the proposed application complies with City of Kelowna OCP policies on TFWH requirements. Specifically, agriculture is the principal use on the parcel. The scale of the farm operation 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 the housing is located in an area of the property that minimizes the residential impact to agriculture.

4.0 Proposal

4.1 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 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 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. The applicants have also provided a letter of opinion from an agrologist (attached) on the proposed worker accommodation area and its impact on the overall agricultural operations on the subject property.

4.2 Project Description

The property owners have applied for a non-adhering residential use permit 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 majority of the housing will be located in two 'pods' of 6 trailers each. Each pod includes bedrooms, shared washrooms and a common kitchen area.

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.

4.3 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.

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.
- 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.

5.2 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

6.0 **Technical Comments**

6.1 Ministry of Agriculture

- Ministry staff in general support the development of farm worker accommodation appropriate to the farm operation's agricultural activity and consistent with the ALC's Act and Regulations.
- Based on the information provided, Ministry staff consider the proposal to be a reasonable application based on the crop, scale, and location of the agricultural operation. Ministry staff are aware of Kelowna's accompanying referral requests for FH19-0006 farm help application and TA19-0017 zoning bylaw text amendment and will respond separately following further review.
- Ministry staff anticipate that the zoning bylaw text amendment will require Minister's approval given that the City of Kelowna's is identified in the Local Government Act's Right to Farm Regulation with the proposed bylaw being submitted following 3rd reading.

7.0 **Application Chronology**

Date of Application Received:	November 5 th 2019
Date Public Consultation Completed:	December 20 th 2019
Agricultural Advisory Committee	December 12 th 2020

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

*THAT The Agricultural Advisory Committee recommends that Council **support** temporary farm worker housing for up to 70 additional 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.*

Report prepared by: Alex Kondor, Planner Specialist

Reviewed by: Terry Barton, Development Planning Department Manager

Attachments :

Schedule A – Site Plan

Schedule B – Letter from Applicant

Schedule C – Agrologist Report

Schedule D – ALC Non-Adhering Residential Use Application