

REPORT TO COUNCIL



Date: May 11th, 2020

To: Council

From: City Manager

Department: Development Planning Department (TC)

Application: A20-0002

Owner: Paramjot Bains

Address: 3496 Fitzgerald Rd

Applicant: Paramjot Bains

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

Existing OCP Designation: REP – Resource Protection Area

Existing Zone: A1 – Agriculture 1

1.0 Recommendation

THAT Agricultural Land Reserve Appeal No. A20-0002 for the West ½ of Lot 5 Section 10 Township 26 ODYD Plan 355, located at 3496 Fitzgerald Road, Kelowna, BC for a Non-Adhering Residential Use Permit 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 support an application to the Agricultural Land Commission for a non-adhering residential use permit to temporarily allow for 2 dwellings to be constructed on land within the ALC which would facilitate the construction of a new dwelling, while allowing the applicant to remain in an existing house during the construction period.

3.0 Development Planning

Development Planning staff support the non-adhering residential use permit application. This application is to allow for the construction of a new principal dwelling in addition to an existing dwelling to remain on the property until construction of the new dwelling is complete. The proposal would temporarily allow for 2 dwellings on the subject site. The Agricultural Land Commission Act states that land within the ALR may have no more than one residence per parcel unless an owner applies to the commission for permission for a non-adhering residential use permit.

Following completion of construction, the existing residence will be decommissioned and will be used for storage and act as a fruit stand. The existing house is too small for the family but will act as an important building for their farming operations. Both buildings will remain in a contiguous residential footprint to maximize the total farmable area, as well as limiting the footprint of residential uses. The subject property is being actively farmed by the owner and is an active cherry farm, with several varieties. Development Planning staff do not anticipate any neighbourhood concerns with the support of this non-adhering residential use permit.

4.0 Proposal

4.1 Background

The subject property is 13.87 acres (5.6ha) property, where four different varieties of cherries (Skeena, Sweetheart, Staccato, Centennial) are grown. The property is located within the Southeast Kelowna Sector and access through an easement off Fitzgerald Road. The orchard was originally growing apples and was previously owned by the applicant's father. The property is now owned and farmed by the applicant.

4.2 Project Description

A preliminary site plan and house plan have been provided in support of the application ('Attachment A'). The proposed principal dwelling will be built to stay within the maximum 500m² size. The family has owned the property since 1979, and the existing house is no longer adequate to house the family due to the age of the structure and the size. The dwelling will be multi-generational, housing four generations on site and is no longer large enough. A detailed description has been provided in the attached ALC Applicant Submission ('Attachment B').

The owner is applying for a non-adhering residential use permit, because they wish to remain in the house throughout the duration of the construction of the new dwelling. The existing dwelling will be decommissioned and turned into a storage facility and fruit stand.

The existing house was built in 1910 and provides heritage value to the subject property and community. Many of the old farmhouses in Southeast Kelowna have been demolished. The bottom floor will be converted into storage where farm equipment, chemicals, tools and a cold storage area. The owners currently do not have adequate storage for their farm and have never built the appropriate accessory buildings to house their farming equipment. The conversion will not only help with storage, but it will also help with safety, as they have been victims of theft in the past. The top floor will be converted into a storage room, office, gift shop, stock room and fruit and vegetable display area. The applicant has been in the area for 40+ years and is confident that there is a market for a fruit stand in the area, as the closest shop/fruit stand for cherry pickers is at KLO Supermarket more than 2km away.

There will be appropriate signage along Pooley Road and at the end of the driveway to help locals, guests and tourists find the fruit stand. With the conversion of the existing dwelling into storage, two onsite trailers will be able to be removed, which will allow the owners to cultivate the land and plant an additional 60-70 cherry trees.

4.3 Site Context

The subject property lies within the Southeast Kelowna City sector. The surrounding area is predominantly agricultural lands within the Agricultural Land Reserve. Most of the properties in the neighbourhood are zoned A1 – Agriculture 1, while there are a few pockets of Rural Residential as well.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	A1 – Agriculture 1	Agriculture
East	A1 – Agriculture 1	Agriculture
South	A1 – Agriculture 1 / RR2 – Rural Residential 2	Agriculture / Rural Residential
West	A1 – Agriculture 1	Agriculture

Subject Property Map: 3496 Fitzgerald Rd



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.

5.2 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:

(a) the agricultural land may have no more than one residence per parcel;

(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: February 13th, 2020

Date Public Consultation Completed: N/A

Report prepared by: Tyler Caswell, Planner I

Reviewed by: Alex Kondor, Acting Agricultural Manager

Approved for Inclusion: Terry Barton, Development Planning Department Manager

Attachments:

Attachment A: Conceptual House Plans

Attachment B: Non-Adhering Residential Use – ALC Application