

# REPORT TO COUNCIL



**Date:** July 13, 2020

**To:** Council

**From:** City Manager

**Department:** Development Planning

**Application:** A20-0001      **Owner:** Byrnes Farm Ltd. Inc., No. 210094

**Address:** 1756 Byrns Rd      **Applicant:** Kevin Day

**Subject:** Application to the ALR for a Non-Adhering Residential Use Permit

**Existing OCP Designation:** REP – Resource Protection Area

**Existing Zone:** A1 – Agriculture 1

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## 1.0 Recommendation

THAT Agricultural Land Reserve Appeal No. A20-0001 for Lot 23 District Lot 129 ODYD Plan 415 Except the East 4.14 Chains located at 1756 Byrns Road, Kelowna, BC for a Non-Adhering Residential Use pursuant to Section 25 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 allow for an additional dwelling and for Temporary Farm Worker Housing (TFWH) for up to eight workers on the subject property.

## 3.0 Development Planning

Development Planning staff support the non-adhering residential use permit application for an additional dwelling and TFWH for up to eight workers on the subject property. This application is to allow for a third dwelling on the property as part of the farm's succession planning. 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. The applicant and his family own four properties and lease two additional properties all along Byrns Road. All these properties have active farms and are farmed and operated by the family. The ALR application is for the third dwelling on the subject property and is part of the family's succession planning, as the applicant is nearing retirement.

When the applicant retires, his daughter and her husband plan to take over the farm duties. In order to fulfill the succession of day-to-day duties, the daughter needs to live on the farm to oversee operations.

The family's long-term plan is to remove the existing home from the property, (when the applicant's father moves off the property). This will leave the proposed new home and an existing mobile home, which are permitted in the ALR and A1 zone. For this application to meet the City of Kelowna's Agricultural Plan and the Official Community Plan policies, as well as formalize the promise to eventually remove the home, the applicant has agreed to place a restrictive covenant on one of the neighbouring vacant parcels. This adjacent parcel currently does not have a dwelling on it and the covenant would not allow a home to be constructed on this adjacent parcel until the subject third dwelling on the subject parcel is removed. The covenant would allow the proposal to meet City Agricultural policies and regulations, as well as maximizes the impact on farmable land and support the succession plan for the farm.

The application also includes a request for the permitting of an existing TFWH structure. This structure will allow up to eight workers to reside on the site. The structure is North of the existing dwellings and is 71.35m<sup>2</sup> in size. This request complies with the City of Kelowna OCP policies for TFWH requirements. The applicant has demonstrated that the scale of farm operations is large enough to benefit from farm employees whose residence on the farm property. This structure has been previously used to employ workers under the Season Agricultural Workers Program (SAWP).

#### **4.0 Proposal**

##### **4.1 Background**

The Day Family currently farms a large portion of the Byrns Road area. In addition to the subject property, they own three other properties in the area consisting of an additional 25.8ha (63.75 acres) of land, they also lease two additional parcels from the City along Byrns Rd that equal 28.37 ha (70.11 acres), making the total area currently farmed by the family 61.77 ha (152.64 acres) (Attachment C).

##### **4.2 Project Description**

Through this ALR Application the Applicants are seeking support for a third home and temporary farm worker housing on the subject property. The subject property currently has two homes, one for the retired father of the applicant and the other for the applicant's sister. This proposal is for the applicant's daughter and her husband. The applicant's daughter and her husband will be the fifth generation of the family to carry on the farm and the duties. The applicant lives on one of the neighbouring properties and is nearing retirement, so the family is seeking approvals to allow for the succession of farm duties with this new home. Having the daughter on site will make the succession of the farm possible, as the applicant can take over the duties of the farm when the applicant retires.

There are two existing homes on the property, the first is a stick frame home (89.19m<sup>2</sup>), which will be eventually removed when the father of the applicant moves on and the other is the applicant's sister, which is a mobile home (133.78m<sup>2</sup>). The third proposed home is set to be 145m<sup>2</sup>, less than maximum of 500m<sup>2</sup> and is in a tight and unified area limiting the impact on surrounding agriculture. This home will also be accessed from the existing gravel driveway and no negative impacts to the existing agriculture will occur. The ALR application is also to permit an existing 71.35m<sup>2</sup> Temporary Farm Worker housing structure, which is to be used for a maximum of eight workers.

4.3 Site Context

The subject property is located within the South Pandosy – KLO OCP Sector. The surrounding area is almost entirely agricultural lands within the Agricultural Land Reserve. These properties are all zoned A1 – Agriculture 1.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	A1 – Agriculture 1	Active Farm / Pear Orchard & Market Garden
East	A1 – Agriculture 1	Active Farm / Pear Orchard
South	A1 – Agriculture 1	Active Farm / Alfalfa Hay farming
West	A1 – Agriculture 1	Active Farm / Livestock Barn & Alfalfa Farming

**Subject Property Map: 1756 Byrns 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

## 6.0 **Technical Comments**

### 6.1 Ministry of Agriculture

6.1.1 The parcel is located within the Agricultural Land Reserve (ALR), a provincial zone in which agriculture is recognized as the priority use and where farming is encouraged, and non-agricultural uses are restricted. As per ALC ACI Section s. 25(1. l), the ALC must not grant permission for an additional residence unless it is necessary for a farm use. It appears based on the site plan included that the location of the additional residence maintains the most optimal configuration of contiguous, productive land. 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 recognize that the Day family has been farming in the Okanagan valley for four generations and contribute significantly to local agricultural production.

### 6.2 Policy & Planning

6.2.1 Succession planning has been identified as a challenge in farming through the development of the Agriculture Plan and it is commendable that the applicants are looking to ensure long-term success of the farm. A second dwelling is supported through OCP Policy 5.34.2 Farm Help Housing when 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. It is suggested to have something in place (bond or other) to ensure removal of the mobile home.

**7.0 Application Chronology**

Date of Application Received: January 28<sup>th</sup>, 2020  
Date Public Consultation Completed: N/A  
Agricultural Advisory Committee: N/A

**Report prepared by:** Tyler Caswell, Planner I

**Reviewed by:** Dean Strachan, Community Planning & Development Manager

**Approved for Inclusion:** Terry Barton, Development Planning Department Manager

**Attachments:**

Attachment A: Site Plan

Attachment B: List of Farmed Properties

Attachment C: Agrologist Report

Attachment D: Ministry of Agriculture Letter

Attachment E: Non-Adhering Residential Use – ALC Application