

REPORT TO COUNCIL



Date: September 27th, 2021

To: Council

From: City Manager

Department: Development Planning

Application: A21-0004

Owner: Dilbag Singh Brar &
Sarabjeet Kaur Brar

Address: 355-357 Valley Road

Applicant: Carl Withler

Subject: A21-0004

Existing OCP Designation: REP – Resource Protection Area

Existing Zone: A1 – Agriculture 1

1.0 Recommendation

THAT Agricultural Land Reserve Appeal No. A21-0004 for Lot 7 Block 9 Section 33 Township 26 ODYD Plan 896 Except Plan B3900 located at 355-357 Valley Road, Kelowna, BC, for a Non-Adhering Residential Use Permit 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 consider an application to the Agricultural Land Commission for a Non-Adhering Residential Use Permit application to allow the conversion of an existing accessory building into a living space for the owners, farm manager and four temporary farm workers.

3.0 Development Planning

Staff support the application for the conversion of the accessory building into living space for the owners, farm manager and four temporary farm workers. The applicant has shown the need for temporary farm workers through the completion of an Agrologist Report (Attachment B). The accessory building has several bylaw compliances issues; however, the new owners are trying to utilize the structure to benefit the overall agriculture and to limit the impact of farmable land. Staff do have concerns with precedence of renting out the main house while the owners live in another dwelling on the property, however, the structure is existing, and Staff believe this is a net benefit to agriculture.

The proposed application complies with the City of Kelowna Official Community Plan (OCP) policies of TFWH requirements. The applicant has demonstrated that the scale of farm operations 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. Typically, TFWH is on non-permanent foundations, however, the City’s Agriculture Plan, the Official Community Plan and Zoning Bylaw support the conversion of existing dwellings into Temporary Farm Worker Housing if agriculture is the principal use, as this minimizes the overall impact to agricultural land. If the application is successful, the owners are required to submit a staff-level application for a Temporary Farm Worker Permit.

4.0 Proposal

4.1 Background

The subject property has one single-family dwelling and an accessory building. The previous owners applied for an ALR application in 2013 (A13-0002), which was to permit the occupancy of an accessory building, which was appeared to have been turned into a fourplex. The building was originally permitted as a semi-detached unit for the manager of the orchard, however, after Bylaw Services investigation, it appeared the building was converted into a fourplex and was being rented out. Bylaw Services required the owner to apply for the non-farm use or to decommission/demolish the structure. The owner applied for a non-farm use and both the AAC and Council did not support the application, so it was not forwarded to the province for consideration. The applicant also applied for an appeal with the ALC, however, this was refused in 2014. The owners were required to decommission the structure or demolish it. The owners applied for a decommissioning permit with the City, however, the permit was never closed, and no final inspection was ever conducted.

4.2 Project Description

The new owners are applying for a non-adhering residential use permit to allow the accessory building to be used for an additional residence for the owners, a space for the manager of the farm and room for four seasonal agricultural workers. The building is already converted into four units, all with two bedrooms, one bathroom, laundry, a kitchen, and a living room. The existing single-family home on the property is being rented out to help the owners with the mortgage payments of the property. The applicant has completed an Agrologist Report (Attachment B) that offers a positive recommendation that the amount of farming on the property required seasonal agriculture workers.

4.3 Site Context

The subject property is 30.39 (12.3ha) acres in size, is located on Valley Road and is within the Glenmore – Clifton – Dilworth OCP Sector. The property was planted with apples and pears; however, the new owners ploughed and levelled the property, which is in the process of being replanted. The plan is to have peaches, apples, and cherries on the property.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	A1 – Agriculture 1	Agriculture / Single-Family Dwelling
East	A1 – Agriculture 1	Agriculture
South	A1 – Agriculture 1 / RR3 – Rural Residential 3	Agriculture
West	RM5 – Medium Density Multiple Housing	Vacant

Subject Property Map: 355-357 Valley Road



5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

The City of Kelowna Official Community Plan (OCP) policy on Farm Help Housing states accommodation for farm help on the same agricultural parcel will be considered only where:

- Agriculture is the principal use on the parcel.
- 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; and,
- TFWH (e.g., bunkhouse accommodation on non-permanent foundations) is the preferred solution where the need for farm worker housing is justified.

The Farm Protection Development Permit Guidelines state to design TFWH such that:

- TFWH 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.
- TFWH 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.

5.2 Ministry of Agriculture – Guide to Bylaw Development in Farming Areas

In keeping with the Ministry of Agriculture's Guide to Bylaw Development in Farming Areas and the City's policy for Temporary Farm Worker Housing, Development Planning Staff recommend the registration of Section 219 Restrictive Covenants which state:

- The TFWH shall 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.
- The dwellings will only be used for farm workers for a maximum of eight (8) months of the year.
- The maximum number of accommodations permitted on this farm unit within this City sector is 60 workers: and,
- The TFWH building footprint is a maximum of 0.3ha.

5.3 Zoning Bylaw no. 8000

Zoning Bylaw recommends that the following requirements are met prior to issuance for a Temporary Farm Worker Housing (TFWH) structure:

- Farm Classification for the parcel, as determined by the BC Assessment Act.
- Minimum farm unit size is 3.8 ha.
- The need for temporary farm worker housing onsite to house temporary farm workers must be demonstrated through documentation such as a contract with the federal government through a migrant worker program, such as the Seasonal Agricultural Worker Program, farm receipts and / or previous employment records, and/or a farm plan prepared by a professional agrologist.
- New TFWH structures shall include a communal kitchen.
- The TFWH shall be occupied only during the farm unit's growing, harvesting and pruning periods.
- A statutory declaration must be filed with the City of Kelowna annually, by January 31st, stating that the building will be used only for TFWH and specify the time(s) of year when the TFWH will be occupied. The specified period of time may be no greater than ten months of that calendar year.

If the temporary farm worker housing is vacant for two consecutive growing seasons, the owner will remove, at their expense, any temporary structures for temporary farm worker housing, and remove or decommission any existing buildings that had been repurposed for temporary farm worker housing purposes, by December 31st of the second year of vacancy.

5.4 City of Kelowna Agriculture Plan

The City of Kelowna Agriculture Plan recommends to:

- Allow TFWH, as permitted by City of Kelowna Bylaw. TFWH, 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.

6.0 Application Chronology

Date of Application Received: March 25th, 2021
Agricultural Advisory Committee September 9th, 2021

The above noted application was reviewed by the Agricultural Advisory Committee at the meeting held on September 9th and the following recommendations were passed:

THAT the Committee recommends that Council approve a non-adhering residential use permit for the conversion of an existing accessory building into a living space for the owners, farm manager and temporary farm workers.

Anecdotal comments from the Agricultural Advisory Committee (AAC) are they support the application; however, they would like to see a restrictive covenant placed on site, which would limit rental housing on the subject property to temporary farm workers. In addition, the Committee has concerns regarding the primary residence remaining a rental property and would like to see a timeline of three years maximum to review the proposed plan for the owners to move into the primary residence.

Report prepared by: Tyler Caswell, Planner I
Reviewed by: Dean Strachan, Community Planning & Development Manager
Reviewed by: Terry Barton, Development Planning Department Manager
Approved for Inclusion: Ryan Smith, Divisional Director, Planning & Development Services

Attachments:

Attachment A – ALC Non-Adhering Residential Use Application
Attachment B – Agrologist Report
Attachment C – Ministry of Agriculture Memo