

REPORT TO COUNCIL



Date: January 10, 2022

To: Council

From: City Manager

Department: Development Planning

Application: A21-0012 / FH21-0003 **Owner:** Jealous Fruits Ltd., Inc. No. 1282068

Address: 3700 Pooley Road **Applicant:** Jordan Hettinga

Subject: Application to the ALC for Non-Adhering Residential Use Permit for Temporary Farm Worker Housing

Existing OCP Designation: REP – Resource Protection Area

Existing Zone: A1 – Agriculture 1

1.0 Recommendation

THAT Agricultural Land Reserve Application No. A21-0012 for Lot C Sections 11 and 14 Township 26 ODYD Plan EPP98515 located at 3700 Pooley 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;

AND THAT Council authorizes the issuance of Temporary Farm Working Housing Permit No. FH21-0003 for Lot C Sections 11 and 14 Township 26 ODYD Plan EPP98515 located at 3700 Pooley Road, Kelowna, BC subject to the following:

1. Approval by the Agricultural Land Commission of Non-Adhering Residential Use Permit Application A21-0012;
2. The dimensions and siting of the building to be constructed on the land in accordance with Schedule A;
3. A vegetated buffer is provided for screening adjacent property lines and between the temporary farm worker housing and active farming areas in accordance with Schedule B;
4. The applicant is required to post the City a Landscape Security deposit in the form of a "Letter of Credit" in the amount of 125% of the estimated value of the landscape buffer, as determined by a professional landscaper;
5. Registration of a Section 219 Restrictive Covenant on the Title that states:

- a. The dwellings will be used for temporary farm workers only;
- b. The owner will remove the dwellings if the farm operation changes such that if they are not longer required;
- c. The dwellings will only be used for farm workers for a maximum of ten (10) months of the year;
- d. The maximum number of accommodations permitted on this farm unit within this City sector is 60 workers: and,
- e. The temporary farm worker housing building footprint is a maximum of 0.3ha.

AND FURTHER THAT this Permit is valid for two (2) years from the date of Council approval, with no opportunity to extend.

2.0 Purpose

To consider an application to the Agricultural Land Commission for a Non-Adhering Residential Use Permit application to allow Temporary Farm Worker Housing to accommodate 48 seasonal workers on the subject property.

3.0 Development Planning

Staff support the application for Temporary Farm Worker Housing (TFWH) for up to 48 seasonal agricultural workers on the subject property. The proposed farm worker accommodation meets the regulations of the Zoning Bylaw. The proposal is also consistent with the Ministry of Agriculture standards for temporary farm worker accommodation.

The proposed application complies with the City of Kelowna Official Community Plan (OCP) policies of TFWH requirements. Agriculture is the principal use on the parcel. 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. The proposed housing will be on non-permanent foundations which is the preferred solution where the need for farm worker housing is justified and is in an area of the property that minimizes the residential impact to agriculture.

4.0 Proposal

4.1 Project Description

The subject property is 47.17 acres (19.9ha) in size and is located on the corner of Pooley Road and Bemrose Road within the Southeast Kelowna OCP Sector. The property has been cleared and planted for over 50 years with 12.2ha of the property being a cherry orchard. There was a history packing plant located on site. The owners currently have 12 workers on the adjacent property to the North (3710 Pooley Road), which they are currently bringing into conformance. This would push them to the maximum 60 workers allowed within the SE Kelowna OCP Sector.

The applicant is seeking approvals to allow for two drill camp style dormitories (of 6 trailers each) to accommodate 48 seasonal farm workers. The workers will prune, spray, and harvest the subject property, as well as work on other properties in the Okanagan that are owned by Jealous Fruits. The farm workers will be located near the road and the footprint is anticipated to be 0.25ha of land. The two dorms are 19m x 22m and will be a combined footprint of 836m². The proposed housing will be placed on steel skids to reduce the impact on farmable land.

4.2 Site Context

The subject property lies within the Southeast Kelowna OCP Sector. The surrounding area is entirely agricultural lands, within the Agricultural Land Reserve. The area to the West is a park along Mission Creek.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	A1 – Agriculture 1	Agriculture
East	A1 – Agriculture 1	Mission Creek Park
South	A1 – Agriculture 1	Agriculture
West	A1 – Agriculture 1	Agriculture

Subject Property Map: 3700 Pooley Road



5.0 **Current Development Policies**

5.1 Kelowna Official Community Plan (OCP)

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.
- TFWH (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 TFWH such that:

- TFWH should use all existing dwellings within the farm unit, prior to building new TFWH, 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 TFWH 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.
- TFWH should have a minimum 3-metre-wide vegetated buffer for screening to adjacent property lines and between the TFWH and active farming areas.

City of Kelowna Agriculture Plan

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 TFWH, 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 Development Engineering Department

6.1.1 See Attachment B, Development Engineering Memorandum

7.0 Application Chronology

Date of Application Received: August 17th, 2021
Date Public Consultation Completed: December 22nd, 2021

Agricultural Advisory Committee October 14th, 2021

The above noted application was reviewed by the Agricultural Advisory Committee at the meeting held on October 14th, 2021 and the following recommendations were passed:

Anecdotal comments include that the Committee had concerns with the intent for more housing as other existing building use is uncertain in relation to nonagricultural purpose. They requested Staff

to review what the future use of these existing structures are as there are two other housing units available already that could house potentially up to 14 workers. Finally, the Committee believe the proposal is taking way agricultural land for temporary farm workers, and should be using the existing structures, however, the committee is in general support of the application.

Report prepared by: Tyler Caswell, Planner I
Reviewed by: Jocelyn Black, Urban Planning 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: Development Engineering Memorandum
Attachment C: Ministry of Agriculture Memorandum
Attachment D: Site Photographs
Attachment E: Draft Temporary Farm Working Housing Permit (FH21-0003)
Schedule A: Site Plan
Schedule B: Landscape Plan