

# COMMITTEE REPORT



**Date:** December 9, 2021

**RIM No.** 1210-21

**To:** Agricultural Advisory Committee

**From:** Development Planning Department

**Application:** A21-0011      **Owner:** Partap S. and Satvinder K. Shergill

**Address:** 3223-3257 Reid Rd      **Applicant:** Satvinder K. Shergill

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

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

**Existing Zone:** A1 – Agriculture 1

**Agricultural Land Reserve:** Yes

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## 1.0 Purpose

To consider a non-adhering residential use permit to all the conversion of an existing accessory building into temporary farm worker housing to accommodate 18 seasonal farm workers.

## 2.0 Proposal

### 2.1 Background

The subject property is 14.3 acres (5.8 hectares) and located on Reid Road, at the intersection with East Kelowna Road. The subject parcel is used for cherry farming, while the applicants operate on a total of 51 acres of 5 neighbouring properties that produce apples and cherries. The subject property currently has two single-family dwellings. The applicant has indicated that they are both being rented out.

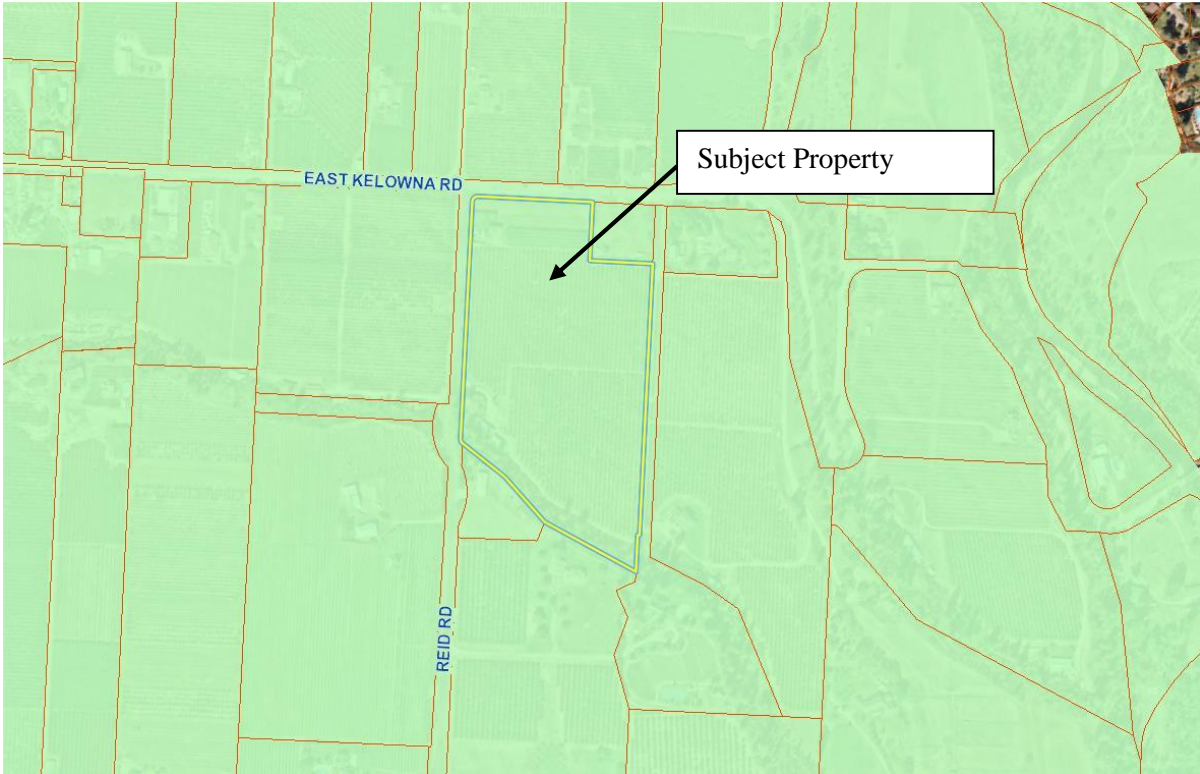
### 2.2 Project Description

The application is to convert the existing farm building into temporary farm worker housing to accommodate 18 seasonal workers. The owners are seeking seasonal agricultural workers to help with the maintenance and planting on their 51 acres of orchard throughout five properites. The subject accessory building being converted is 102m<sup>2</sup> in size, and one storey in height. The converted building will contain bedrooms, a kitchen and laundry facilities. The applicant has provided an Agrologist Report (Attachment B) that offers a positive recommendation that the amount of farming on the property requires seasonal agriculture workers.

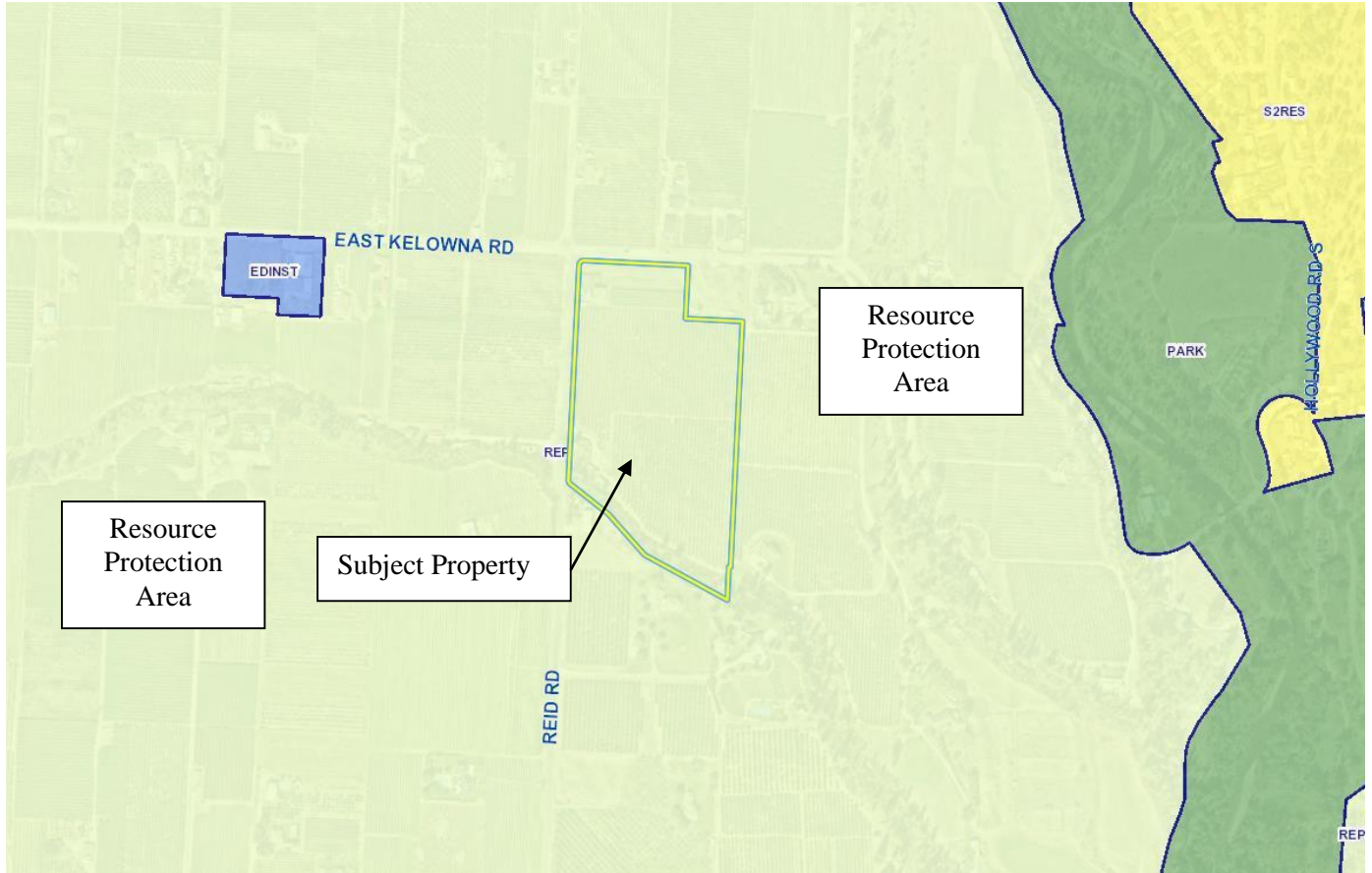
Map 1 - Neighbourhood



Map 2 – Agricultural Land Reserve



### Map 3 – Future Land Use



### 2.3 Neighbourhood Context

The subject property lies within the Southeast Kelowna OCP Sector. The surrounding area is primarily agricultural land within the Agricultural Land Reserve.

Zoning and land uses adjacent to the property are as follows:

**Table 1: Zoning and Land Use of Adjacent Property**

Direction	Zoning	ALR	Land Use
North	A1 – Agriculture 1	Yes	Agriculture
South	A1 – Agriculture 1	Yes	Agriculture
East	A1 – Agriculture 1	Yes	Agriculture
West	A1 – Agriculture 1	Yes	Agriculture

### 3.0 Development Planning

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 and the owner

demonstrates the need for farm employees. However, there is concern with precedence of renting out the multiple existing houses while converting an accessory building into temporary farm worker housing.

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.

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.

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, Community 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.

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.

**Report prepared by:** Graham Allison, Planner I

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

**Attachments:**

Attachment A – ALC Non-Adhering Residential Use Application

Attachment B – Site Plan

Attachment C – Agrologist Report

Attachment D – Site Photographs

# SCHEDULE A - Policies



Subject:           Address

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## 3.1 City of Kelowna Agriculture Plan (1998)

### ALR Application Criteria<sup>1</sup>

Exclusion, subdivision, or non-farm use of ALR lands will generally not be supported. General non-support for ALR applications is in the interest of protecting farmland through retention of larger parcels, protection of the land base from impacts of urban encroachment, reducing land speculation and the cost of entering the farm business, and encouraging increased farm capitalization.

### 1.1 City of Kelowna Strategic Plan

**Objective<sup>2</sup>: Sensitively integrate new development with heritage resources and existing urban, agricultural and rural areas.**

Action towards this objective<sup>3</sup>: Evaluate the effectiveness of City policies and bylaws in preserving agricultural lands.

### 1.3 Kelowna Official Community Plan (OCP)

#### Land Use Designation Definitions

#### **Resource Protection Area<sup>4</sup>**

Generally land areas within this designation (whether they are within the permanent growth boundary or not) will not be supported for exclusion from the ALR or for more intensive development than that allowed under current zoning regulations, except in specific circumstances where the City of Kelowna will allow exceptions to satisfy civic objectives for the provision of park/recreation uses.

#### **Permanent Growth boundary<sup>5</sup>**

Lands within the permanent growth boundary may be considered for urban uses within the 20 year planning horizon ending 2030. Lands outside the permanent growth boundary will not be supported for urban uses.

## Chapter 5 – Development Process

**Objective 5.3 Focus development to designated growth areas.**

**Policy .1 Permanent Growth Boundary<sup>6</sup>.** Establish a Permanent Growth Boundary as identified on Map 4.1 and Map 5.2. Support development of property outside the Permanent Growth Boundary for more intensive uses **only** to the extent permitted as per the OCP Future Land Use designations in place as of initial adoption

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<sup>1</sup> City of Kelowna Agriculture Plan. 1998. P. 130.

<sup>2</sup> City of Kelowna Strategic Plan. 2004. P. 7.

<sup>3</sup> City of Kelowna Strategic Plan. 2004. P. 29.

<sup>4</sup> City of Kelowna 2030 Official Community Plan. Future Land Use Chapter. P. 4.2.

<sup>5</sup> City of Kelowna 2030 Official Community Plan. Future Land Use Chapter. P. 4.6.

<sup>6</sup> City of Kelowna 2030 Official Community Plan. Development Process Chapter. P. 5.2.

of OCP Bylaw 10500, except as per Council's specific amendment of this policy. Resource Protection Area designated properties not in the ALR and outside the Permanent Growth Boundary will not be supported for subdivision below parcel sizes of 4.0 ha (10 acres). The Permanent Growth Boundary may be reviewed as part of the next major OCP update.

### **Agricultural Land Use Policies**

#### **Objective 5.33 Protect and enhance local agriculture<sup>7</sup>.**

**Policy .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.

**Policy .2 ALR Exclusions.** The City of Kelowna will not forward ALR exclusion applications to the ALC except in extraordinary circumstances where such exclusion is otherwise consistent with the goals, objectives and other policies of this OCP. Soil capability alone should not be used as justification for exclusion.

**Policy .3 Urban Uses.** Direct urban uses to lands within the urban portion of the Permanent Growth Boundary, in the interest of reducing development and speculative pressure on agricultural lands.

#### **1.4 Agricultural Land Commission Act (ALCA)**

Purposes of the commission – Section 6 of the ALCA

The following are the purposes of the commission:

- (a) to preserve agricultural land;
- (b) to encourage farming on agricultural land in collaboration with other communities of interest;
- (c) to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

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<sup>7</sup> City of Kelowna 2030 Official Community Plan: Agricultural Land Use Policies Chapter. P. 5.35.

# SCHEDULE B – Technical Comments



**Subject:** ADDRESS – APPLICATION TYPE

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## 3.2 Development Engineering Department

Development Engineering has no comments at this point in time with regard to this application, however, a comprehensive report will be provided at the time of development application submission when the Agricultural Land Commission agrees to the proposed activity on the subject property.

## 3.3 Southeast Kelowna Irrigation District (SEKID)

SEKID has no comments or objections to the above referenced file.