

REPORT TO COUNCIL



Date: February 27th, 2023
To: Council
From: City Manager
Department: Development Planning
Application: A22-0006 **Owner:** Jeffrey Dale Peter Polovick
Address: 4351 Shanks Road **Applicant:** Urban Options Planning Corp.
Subject: Application to the ALC for a Non-Farm Use Application to allow for the sale of landscaping products.
Existing OCP Designation: R-AGR – Rural – Agricultural and Resource
Existing Zone: A1 – Agriculture 1

1.0 Recommendation

THAT Agricultural Land Reserve Application No. A22-0006 for Lot 14 Section 34 Township 23 and Section 3 Township 20 ODYD Plan 500 Except Plan 44031, located at 4351 Shanks Road, Kelowna, BC for a non-farm use application in the Agricultural Land Reserve pursuant to Section 20(2) of the Agricultural Land Commission Act, NOT be supported by Council;

AND THAT Council directs Staff NOT to forward the subject application to the Agricultural Land Commission for consideration.

Purpose

To review a Staff recommendation NOT to support an application to the Agricultural Land Commission to allow for the sale of landscaping products.

2.0 Development Planning

Staff do not support the proposal to allow for the sales of landscaping products on the subject property located within the Agricultural Land Reserve (ALR) as it is inconsistent with the objectives of the Official Community Plan (OCP) and the City's Agricultural Plan. To protect and enhance local agriculture, the policy direction provides support for non-farm use applications only where the proposed use meets the following criteria:

- i. Are consistent with the Zoning Bylaw and the 2040 OCP;
- ii. Provide significant benefits to local agriculture;
- iii. Do not require the extension of municipal services;
- iv. Will not utilize productive agricultural lands;

- v. Will not preclude future use of lands for agriculture; and
- i. Will not harm adjacent farm operations.

The proposed sale of landscaping products that are brought from off-site locations does not meet the intent of the City’s policies, as this is not a permitted agricultural activity. The subject property does have an active agricultural operation including a nursery and greenhouse; however, Staff do not believe the proposal to bring on rocks and other landscaping materials benefits local agriculture and is not necessary for the farm uses on the property. Staff, believe the entire operation should be limited to 150m² in size for a greenhouse and plant nurseries selling non-farm use products, which will meet the Zoning Bylaw use regulation. Overall, the owners have tried to bring the property into compliance and resolve historic site issues, however, the proposal to continue to bring on landscaping products can’t be supported by Staff as it has the potential to degrade arable land and it does not enhance the land base to increase the range of agricultural products that can be grown on the subject property.

3.0 Proposal

3.1 Project Description

This Non-Farm Use Application seeks to bring the existing business into compliance with the Agricultural Land Commission legislation and the City of Kelowna Zoning Bylaw and Business License. The owners of the subject property took possession of the property, existing garden center and nursely business in September 2020 and have begun the process of bringing the property into compliance. They have resolved former soil issues, cleaned up clutter, and built a new greenhouse.

The Non-Farm Use Application is to allow for the owners to continue to sell the existing aggregate and hardscaping products onsite until it has all been removed, as well as to allow for the sale of soil products, soil additives, mulches, and landscaping rocks, which are all brought from offsite locations.

If the application is endorsed by Council and approved by the Agricultural Land Commission, a site-specific Text Amendment Application is required for the operation to conform with the Zoning Bylaw. The Text Amendment Application would be for an increase in the size of the greenhouse and plant nursery sale area selling non-farm products.

3.2 Site Context

The subject property has the Future Land Use Designation of R-AGR – Rural – Agricultural and Resource, is zoned A1 – Agriculture 1 and is in the Agricultural Land Reserve. The surrounding area is primarily A1 zoned properties within the ALR. The property also borders land in the District of Lake Country and OKIB (across Hwy 97).

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	District of Lake Country	Agriculture
East	Okanagan Indian Band (IR #7)	Vacant
South	A1 – Agriculture 1	Agriculture
West	A1 – Agriculture 1 / District of Lake Country	Vacant / Agriculture

Subject Property Map: 4351 Shanks Road



4.0 Current Development Policies

Objective 8.1. Protect and preserve agricultural land and its capability	
Policy 8.1.1. Protect Agricultural Land.	<p>Retain the agricultural land base by supporting the ALR and by protecting agricultural lands from development. Ensure that the primary use of agricultural land is agriculture, regardless of parcel size.</p> <p><i>The application proposes bringing on landscaping materials including mulches and landscape rock. This does not support agricultural activities on the property.</i></p>
Policy 8.1.6. Non-farm Uses.	<p>Restrict non-farm uses that do not directly benefit agriculture except where such non-farm uses are otherwise consistent with the goals, objects, and other policies of this OCP. Support non-farm use applications only where approved by the ALC and where the proposed uses:</p> <ul style="list-style-type: none"> i. Are consistent with the Zoning Bylaw and the 2040 OCP; ii. Provide significant benefits to local agriculture; iii. Do not require the extension of municipal services; iv. Will not utilize productive agricultural lands; v. Will not preclude future use of lands for agriculture; and vi. Will not harm adjacent farm operations. <p><i>Most of the property and operation conform with the OCP and Zoning Bylaw, the inclusion of landscape products brought from off-site does not conform with either.</i></p>

5.0 Application Chronology

Date of Application Received: December 15th, 2022

Agricultural Advisory Committee: N/A

6.0 Alternate Recommendation

THAT Agricultural Land Reserve Application No. A22-0006 for Lot 14 Section 34 Township 23 and Section 3 Township 20 ODYD Plan 500 Except Plan 44031, located at 4351 Shanks Road, Kelowna, BC for a non-farm use application in the Agricultural Land Reserve pursuant to Section 20(2) of the Agricultural Land Commission Act, be supported by Council;

AND THAT Council directs Staff to forward the subject application to the Agricultural Land Commission for consideration.

Report prepared by: Tyler Caswell, Planner II

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 – Site Plan

Attachment C – Applicant’s Rationale

Attachment D – Ministry of Agriculture Memo