REPORT TO COUNCIL AGRICULTURAL LAND RESERVE APPLICATION & TEMPORARY FARM WORKER HOUSING PERMIT

City of **Kelowna**

Date:	July 24th, 2023
To:	Council
From:	City Manager
Address:	3505 Fitzgerald Road
File No.:	A23-0006 / FH23-0002
Zone:	A1 – Agriculture

1.0   Recommendation

THAT Agricultural Land Reserve Application No. A23-0006 for Lot 1 Section 10 Township 26 ODYD Plan 30818 Except Plan KAP45260, located at 3505 Fitzgerald 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 Worker Housing Permit No. FH23-0002 for Lot 1 Section 10 Township 26 ODYD Plan 30818 Except Plan KAP45260, located at 3505 Fitzgerald Road, Kelowna, BC subject to the following:

1. Approval by the Agricultural Land Commission of Non-Adhering Residential Use Permit Application A23-0006;

2. The dimensions and siting of the building to be constructed on the land be in accordance with Schedule "A";

3. The exterior design and finish of the building to be constructed on the land, be in accordance with Schedule "B";

4. 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 "C";

5. 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;

6. 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 no 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 0.3 ha.

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 support an application to the Agricultural Land Commission for a Non-Adhering Residential Use Permit to allow Temporary Farm Worker Housing to accommodate 23 seasonal workers on the subject property.

3.0 Development Planning

Staff support the application for Temporary Farm Worker Housing (TFWH) for up to 23 agricultural workers on the subject property. The proposed temporary farm worker accommodation meets the regulations of the Zoning Bylaw, and it is also consistent with the Ministry of Agriculture standards for temporary farm worker accommodation.

The proposal complies with the City of Kelowna OCP policies for TFWH. Agriculture is the principal use on the parcel. The applicant has demonstrated through a Professional Agrologist 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 is 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.

The application is to sleep 23 seasonal farm workers in six portable trailers. Four of the units will be used for sleeping areas, while the other two will be used as a kitchen, laundry, and dining area. These additional units are roughly 335 m^2 in size. These six units are within the residential footprint, limiting the impacts of the orchard and South of the other two dwelling units. There are currently two existing dwellings on the property. The first is currently being rented out to a tenant of the owner, while the second is a previously approved farm worker housing dwelling that houses four workers. The applicant has 11.4 ha of cherries on the subject property and owns/leases three other properties containing an additional 27.8 ha in active agriculture.

In accordance with the City of Kelowna Farm Protection Development Permit Guidelines, the application includes a landscape plan, which provides a buffer between the TFWH and the active agricultural land surrounding the housing. This vegetative buffer will be 3.0m wide and be planted with numerous cedars separating the four sleeping units with the active agriculture.

4.0   Subject Property & Background

4.1   Subject Property Map

The subject property is located on Fitzgerald Road and Bemrose Road in Southeast Kelowna. The property is double fronting, but the access is off Fitzgerald Road. The property is zoned A1 – Agriculture and is designated R-AGR - Rural – Agricultural and Resource in the City's Official Community Plan (OCP). The property is located within the Agricultural Land Reserve (ALR).

4.2   Background

The application has come forward due to a Bylaw investigation on the subject property. Staff were notified of the temporary farm worker housing units at the end of March 2023. The City of Kelowna Building & Permitting Branch conducted a site investigation shortly after and placed a Stop Worker Order on the property due to the buildings being placed without Building Permits. The site investigation confirmed that the onsite workers are not currently staying overnight in the trailers and are being bussed in from other locations. The owner applied for a Non-Adhering Residential Use Permit Application and Temporary Farm Worker Housing Permit Application on May 15th, 2023, to attempt to bring the property into conformance and receive all required approvals. If the application is successful, Building Permits would be required before workers are permitted to use the housing units.

5.0   Current Development Policies

Objective 8.1. Protect and preserve agricultural land and its capability	
Policy 8.1.9. Farm Help Housing.	As a first option, encourage farm help housing to be located within the Permanent Growth Boundary, providing access to amenities for workers. As a second option, accommodation for farm help on agricultural land on the same farm unit, where approved by the ALC, will be considered when: • Agriculture is the principal use on the parcel; and

	• The applicant demonstrates that on-site housing for farm workers is necessary for 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. Temporary farm working housing, such as bunkhouse accommodation on non-permanent foundations, is the preferred solution where farm worker housing is justified.
	Agriculture is the principal use of the parcel, and the applicant has demonstrated the need for seasonal agricultural workers.
Policy 8.1.10. Homeplating	Locate buildings and structures, including farm help housing and farm retail sales area and structures, on agricultural parcels in close proximity to one another and where appropriate, near the existing road frontage.
	The farm worker dwelling units are close to the principal dwelling and existing driveway and have created a farm plate near the road frontage.

6.0 Application Chronology

Application Accepted: May 15th, 2023
Neighbour Notification Received: June 30th, 2023

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: Development Engineering Memorandum
Attachment C: Draft Development Permit - FH23-0002
          Schedule A: Site Plan & Floor Plans
          Schedule B: Elevations & Sections
          Schedule C: Landscape Plan

For additional information, please visit our Current Developments online at www.kelowna.ca/currentdevelopments.