

Report to Council



Date: October 31, 2016
File: 1210-21
To: City Manager
From: Community Planning and Real Estate
Subject: Temporary Farm Worker Housing Policy

Recommendation:

THAT Council receives for information, the report from Community Planning and Real Estate dated October 31, 2016, outlining proposed policy changes for Temporary Farm Worker Housing in Kelowna;

AND THAT Council directs staff to prepare the amendments to the Official Community Plan Bylaw No. 10500 as described in the Community Planning and Real Estate report dated October 31, 2016;

AND THAT Council directs staff to prepare the amendments to the Zoning Bylaw No. 8000 as described in the Community Planning and Real Estate report dated October 31, 2016;

AND FURTHER THAT Council directs staff to prepare the amendments to the Development Application Procedures Bylaw No. 10540 as described in the Community Planning and Real Estate report dated October 31, 2016.

Purpose:

To provide policy for temporary farm worker housing that meets the needs of farmers, which adheres to provincial standards and provides a consistent approach across the Central Okanagan.

Background:

Temporary farm worker housing (TFWH) has become an issue due to the growing demand for temporary migrant farm workers. A general lack of labour due to insufficient farm family succession, an aging farm labour population and farm size have led to a critical shortage of

experienced farm labour in much of BC.¹ Central Okanagan municipalities are not immune to these challenges, and have been presented with challenging applications to house hundreds of temporary farm workers. In Kelowna alone, Council has reviewed applications for housing to accommodate 306 workers over the past two years. Farmers utilize programs such as the federal Seasonal Agriculture Worker Program (SAWP) which allows employers to hire temporary foreign workers for a maximum period of 8 months.²

Recognizing that many farming operations have multiple parcels throughout the region, City staff have pursued a regional approach in an effort to provide consistent policies across the Central Okanagan. Subsequently, starting in late 2015, the City of Kelowna collaborated with Regional District of Central Okanagan, City of West Kelowna, District of Lake Country, Ministry of Agriculture and the Agriculture Land Commission with the intent of developing consistent policies for Temporary Farm Worker Housing (TFWH) throughout the region. The District of Peachland declined to participate due to limited ALR land in their boundaries and consequently TFWH has not, nor is expected to, become an issue in that community.

The proposed OCP amendments (Schedule A, attached) and Zoning Bylaw amendments (Schedule B, attached) have been drafted based on Ministry of Agriculture's Ministry of Agriculture Guide to Bylaw Development in Farming Areas³ as well as best practice research from six other communities including Abbotsford, Delta, Maple Ridge, Pitt Meadows, Richmond, and Langley. Further, the proposed amendments to the Development Application Procedures Bylaw (Schedule C, attached) outlines the process for TFWH. The policies and regulations have been drafted to address the majority of applications for temporary farm worker housing with the intent to:

- Minimize the footprint of development on farm land;
- Require the use of existing dwellings within the farm unit as a first option wherever possible;
- Require new TFWH to be temporary structures on non-permanent foundations;
- Address dwellings on all properties within the farm unit, which includes leased properties;
- Address buffers to adjacent properties; and
- Minimize the risk of TFWH being used for non-farm purposes.

Please note that applications for dwellings for full time farm employees are addressed through different policies and regulations, and as outlined in Council Policy 3: Agricultural Land Reserve Referrals, which require a non-farm use application to the Agricultural Land Commission.⁴

Proposal:

The proposed OCP text amendments to the Farm Protection DP Guidelines (Schedule A, attached) introduce policies to:

¹ Ministry of Agriculture, 2009. Regulating Temporary Farm Worker Housing in the ALR, Discussion Papers and Standards.

² Government of Canada, 2016. Hire a temporary foreign worker through the Seasonal Agriculture Worker Program – Overview.
http://www.esdc.gc.ca/en/foreign_workers/hire/seasonal_agricultural/overview.page

³ Ministry of Agriculture, 2015. Guide for Bylaw Development in Farming Areas.

⁴ City of Kelowna, 2012. Council Policy 03: Agricultural Land Reserve (A.L.R.) Referrals

- Ensure TFWH footprint is contiguous with the farm residential footprint (homeplating) or within 50 meters of the road;
- Require all existing dwellings on the farm unit be used first; and
- Require vegetated buffer to screen the TFWH from property lines and active farming areas.

Several other general housekeeping OCP text amendments are also proposed and include:

- Creating consistency between OCP text and Zoning Bylaw text; and
- Removing reference to agri-tourism accommodation to be consistent with Zoning Bylaw amendment to prohibit the use of Agri-tourist accommodation within the A1 zone (Bylaw No. 11265 adopted at October 24 Council meeting).

The following proposed Zoning Bylaw amendments (Schedule B, attached) translate the policy direction into zone regulations and include:

- Definitions for farm residential footprint, farm unit, on-farm processing, temporary farm worker(s), temporary farm worker housing, and temporary farm worker footprint;
- Requirements to be met prior to issuance of a permit for TFWH;
- Maximum TFWH footprint size;
- Maximum number of temporary farm workers that structures can accommodate on the farm unit; and
- The type of TFWH structures allowed.

Amendments to the Development Application Procedures Bylaw (Schedule C, attached) formalizes the process for applicants applying for a Temporary Farm Worker Housing Permit and:

- Defines Direct Temporary Farm Worker Housing Permit, Temporary Farm Worker Housing Permit and Agriculture Advisory Committee; and
- Stipulates the process for TFWH permits. Permits for structures for eight workers or less with no variances would be Direct Permits, signed by the Director of Community Planning, while TFWH permits for all other instances would be forwarded for Council consideration.

Both the Ministry of Agriculture and the Agriculture Land Commission support the proposed amendments and commend the regional approach (see Schedule D and E, letters of support). The draft policies were also presented to the Agriculture Advisory Committee, who have provided their support as well as anecdotal comments for consideration.

Next Steps:

The City of Kelowna and Regional District of Central Okanagan will be undergoing the referral process for the proposed new policies concurrently. While, the District of Lake Country will bring the proposed policies to their Council for discussion towards the end of the year and the City of West Kelowna will be considering the proposed policies as part of their Zoning Bylaw review later this fall.

Please note that the City's proposal varies slightly from the regulations proposed by the RDCO. The proposals subtle differences are in recognition of the RDCO and the City's diverse levels of staffing, current processes, and urban/rural scenarios. Overall, both jurisdictions are proposing regulations that meet the intent of a regional approach to TFWH. Variations include:

- The City proposes to require a Farm Worker Housing Permit, which may require Council consideration in addition to a building permit. The RDCO, however, does not have Farm Worker Housing Permits and proposes to allow TFWH as a permitted use should all zoning regulations be met; a building permit would be required.
- The Regional District will not utilize the Farm Residential Footprint definition for homeplating, instead they will only require the TFWH be within 50m of a road.
- Further, the RDCO recommends policy for TFWH to be occupied during the farm unit's growing, harvesting and pruning periods while the City proposes that TFWH shall only be occupied during the period of March 1 to October 31. This will be a clear requirement for enforcement purposes. Should farmers require farm help outside of the normal growing season, a variance or the requirement for a permanent dwelling would be pursued.

In summary, through collaboration with the RDCO, West Kelowna, Lake Country, Ministry of Agriculture and Agriculture Land Commissions, a consistent approach to temporary farm worker housing across the Central Okanagan has been proposed. The proposed policies and regulations are consistent with provincial standards and will be implemented through amendments to the OCP, Zoning Bylaw and Development Application Procedure Bylaw.

Internal Circulation:

Divisional Director, Community Planning and Real Estate
 Policy and Planning Department Manager
 Divisional Director, Communications and Information Services
 Divisional Director, Corporate and Protective Services
 Building and Permitting Manager
 Bylaw Services Manager

Legal/Statutory Authority:

Local Government Act Part 14, Division 4 - Official Community Plans and Division 5 - Zoning Bylaws.

Legal/Statutory Procedural Requirements:

Local Government Act Section 475 specifies that a local government must, during the development, repeal or amendment of an official community plan, provide one or more opportunities it considers appropriate for consultation with persons, organizations and authorities it considers will be affected. This consultation is in addition to the required public hearing.

Existing Policy:

Official Community Plan:

OCP 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.⁵

OCP Policy 5.34.2 Farm Help Housing. Accommodation for farm help on the same agricultural parcel will be considered only where:

⁵ City of Kelowna 2030 Official Community Plan: Agricultural Land Use Policies Chapter. P. 5.35.

- 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.

Temporary farm worker housing (e.g. bunkhouse accommodation on non-permanent foundations) is the preferred solution where the need for farm worker housing is justified.⁶

Farm Protection DP Guidelines

1.2 On agricultural lands, where appropriate, locate all buildings and structures, including farm help housing and farm retail sales within a contiguous area (i.e. homeplate). Exceptions may be permitted where the buildings or structures are for farm use only.⁷

External Agency/Public Comments:

City of Kelowna staff collaborated with staff from Regional District of Central Okanagan, City of West Kelowna, District of Lake Country, Ministry of Agriculture and Agriculture Land Commission to develop the proposed policies and regulations.

Both the Ministry of Agriculture and the Agriculture Land Commission provided significant input in the development of the proposed changes. Further, both organizations have provided letters of support (see Schedule D and E attached).

Agriculture Advisory Committee: October 13, 2016

The draft Temporary Farmworker Housing policies were reviewed by the Agriculture Advisory Committee at the meeting held on October 13, 2016 and the following recommendation was passed:

Moved by Yvonne Herbison/Seconded by Dominic Rampone

THAT the Agricultural Advisory Committee recommends that Council support Text Amendment Application No. TA16-0015, Text Amendment Application No. TA16-0016 and Official Community Plan Bylaw Amendment Application No. OCP16-0022 in order to provide policy for temporary farm worker housing that meets the needs of farmers, which adheres to provincial standards, in conjunction with a consistent regional approach.

Carried

Anecdotal Comments:

The discussion identified that there are farms in the community that may require temporary farm workers but will not meet the criteria outlined in the proposed policy and regulations so the Committee recommends that Council ensure that those cases will be considered and accommodated. The Agricultural Advisory Committee was pleased about the possibility for all temporary farm worker housing to be located on one parcel in the farm unit which they felt provided opportunities to improve the farming operation as well as provided a social

⁶ City of Kelowna 2030 Official Community Plan. Future Land Use Chapter. P. 5.36

⁷ City of Kelowna 2030 Official Community Plan. Farm Protection DP Guidelines. p. 15.3

benefit for temporary farm workers. The Agricultural Advisory Committee liked the introduction of the term 'farm unit'.

The application files for the required OCP, Zoning and Development Application Procedures Bylaw amendments have been referred to the following organizations for comment:

- Interior Health
- Regional District of Central Okanagan
- Ministry of Agriculture
- Ministry of Transportation
- Black Mountain Irrigation District
- South East Kelowna Irrigation District
- Glenmore Ellison Improvement District
- Rutland Water Works

Communications Comments:

Further, the requirement for consultation under Section 475 of the Local Government Act will be addressed prior to staff bringing the amendments forward to Council for first reading by advertising twice in the Kelowna Daily Courier and posting information about the amendments on the City's official community plan webpage.

Considerations not applicable to this report:

Financial/Budgetary Considerations:

Legal/Statutory Procedural Requirements:

Personnel Implications:

Alternate Recommendation:

Submitted by:

T. Guidi, Sustainability Coordinator M. Steppuhn, Planner Specialist

Approved for inclusion:



TC

cc:

Divisional Director, Community Planning and Real Estate

Policy and Planning Department Manager

Divisional Director, Corporate and Protective Services

Divisional Director, Communications and Information Services

Building and Permitting Manager

Bylaw Services Manager

Regional District of Central Okanagan, Ron Fralick

City of West Kelowna, Brent Magnan

District of Lake Country, Mark Koch

District of Peachland, Cory Gain