Report to Council

Date: April 10, 2017

File: 1210-24

To: City Manager

From: Community Planning and Strategic Investment (TG/MS)

Subject: Temporary Farm Worker Housing Bylaw Amendments OCP16-0022, TA16-0015, TA16-0016

Recommendation:

THAT Official Community Plan Text Amendment Application No. TA16-0022 to amend Kelowna 2030 Official Community Plan Bylaw No. 10500 as outlined in Schedule 'A' attached to the Report from Community Planning and Strategic Investment dated April 10, 2017, be considered by Council;

AND THAT Zoning Bylaw Text Amendment Application No. TA16-0015 to amend City of Kelowna Zoning Bylaw No. 8000 as outlined in Schedule 'B' attached to the Report from Community Planning and Strategic Investment dated April 10, 2017, be considered by Council;

AND THAT Council receives, for information, the amendments to City of Kelowna Development Application Procedures Bylaw No. 10540 as outlined in Schedule 'C' attached to the Report from the Community Planning and Strategic Investment dated April 10, 2017;

AND THAT Council considers the public process outlined in the Report from Community Planning and Strategic Investment dated April 10, 2017, to be appropriate consultation for the purpose of Section 475 (1) and (3) of the Local Government Act;

AND THAT the Official Community Plan text amending bylaw and Zoning Bylaw text amending bylaw be forwarded to a Public Hearing for further consideration;

AND FURTHER THAT Bylaw No. 11375, being Amendment No. TA16-0016 to Development Application Procedures Bylaw No. 10540 be forwarded for reading consideration.

Purpose:

To amend the Official Community Plan, Zoning Bylaw and Development Applications Procedures Bylaw to provide updates to temporary farm worker housing policy 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) is a challenge faced by a number of BC municipalities due to the growing demand for temporary migrant farm workers. A general lack of labour due to insufficient farm family succession, an aging farm population and farm size have led to a critical shortage of experienced farm labour in much of BC.[1] However, farm worker housing is commonly built on agricultural land in the ALR and typically generates concerns within the immediate neighbourhood or community. These include:

- Potential misuse of farm worker housing (i.e. as rental housing for non-farm uses to generate revenue);
- Loss of agricultural land (i.e. permanent conversion of agricultural land to a residential footprint);
- Changes to the agricultural landscape (i.e. the increased density of people and structures clutters the rural aesthetic quality of the landscape);
- Increased demands on municipal infrastructure; and
- A perceived 'detachment' of the workers having no connection to the community.

Central Okanagan communities are not immune to these issues, and as a result several challenging applications have been brought forth to house workers on farm land in the past 18 months.

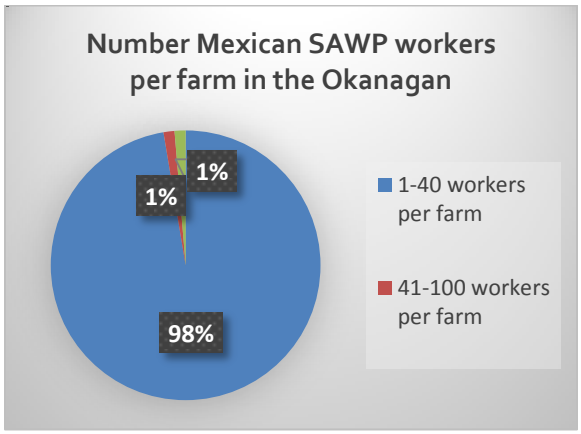
Recognizing that many farm operations have multiple parcels throughout the region, City staff have pursued a regional approach in an effort to provide consistent policies across the Central Okanagan. Starting in late 2015, staff worked together with the Regional District of Central Okanagan, City of West Kelowna, District of Lake Country, the Ministry of Agriculture and the Agriculture Land Commission to review and develop consistent policies for TFWH throughout the region. This "Regional TFWH Working Group" has undergone a robust process in the development of the proposed TFWH as outlined in Schedule D: Temporary Farm Worker Housing Policy Development Process. It should be noted that the District of Peachland declined to participate in the process due to the limited amount of ALR land in their community and TFWH is not expected to become an issue for their community.

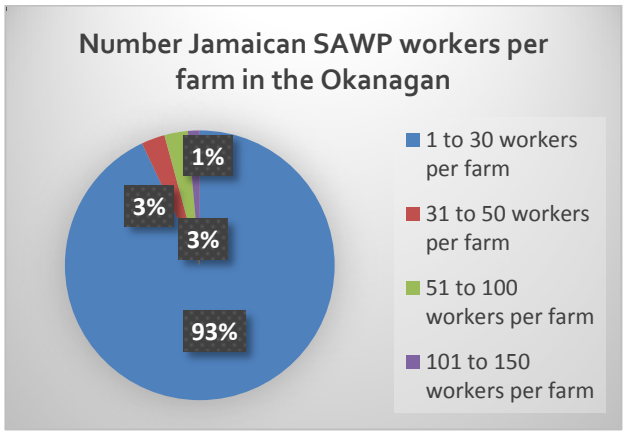
Based on data from the Mexican Consultate and Jamaica Liaison Service, in 2016, farmers in the Okanagan hired 2085 Mexican and 707 Jamaican workers through the federal Seasonal Agricultural Workers Program (SAWP)[2]. When examining the distribution of workers, it was discovered that over 93 per cent of Okanagan farms have less than 40 workers per farm as illustrated in Figure 1. Further investigation found that in 2016, only 3 Kelowna farms had more than 40 Mexican SAWP workers, and only 4 Kelowna farms had more than 30 Jamaican SAWP workers.

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

[2] Personal Communication Consulada General de Mexico en Vancouver SAWP Coordinator and Deputy Chief Liaison Officer, Jamaica Liaison Service

Figure 1: Distribution of SAWP workers per Okanagan Farm





Note: The method for reporting data varies between the Mexican and Jamaican SAWP coordinators.[3]

The proposed OCP amendments (Schedule A, attached), and Zoning Bylaw amendments (Schedule B, attached) take into account the numbers of temporary farm workers per farm in the Okanagan, and have been drafted based on *Ministry of Agriculture's Guide to Bylaw Development in Farming Areas.*[4] The proposed amendments have also been informed through a best practice review of other communities including Abbotsford, Delta, Maple Ridge, Pitt Meadows and Langley. The proposed amendments to the Development Application Procedures Bylaw (Schedule C, attached) outline the process for applying for a Temporary Farm Worker Housing Permit. The policies and regulations have been drafted to address the majority of applications for temporary farm worker housing with the intent of:

- Providing a consistent approach across the region;
- Meeting Council's priority of preserving agricultural land by minimizing the development footprint;
- Providing certainty and predictability for farm operators;
- Establishing a clear process for the application of up to 40 temporary farm workers; and
- Providing Council an opportunity to evaluate and hear from the public for those site specific applications for more than 40 temporary farm workers. These applications would require a site specific zoning amendment and would be required to go through a rezoning process as opposed to the permit process these proposed policies outline (as per Figure 2).

Ministry of Agriculture staff have been involved since the beginning of the process and have provided input and guidance to ensure the proposed policies were consistent with the Ministry of Agriculture's Guide to Bylaw Development in Farming Areas as well as advised on necessary requirements to meet as a Farm Bylaw Community (Kelowna is one of four in the province, regulated under Section 553 of the Local Government Act). A letter of support from the Ministry is attached (Schedule F).

The proposed amendments have also been referred to a variety of organizations for their input including:

---

[3] Personal Communication Consulada General de Mexico en Vancouver SAWP Coordinator and Deputy Chief Liaison Officer, Jamaica Liaison Service

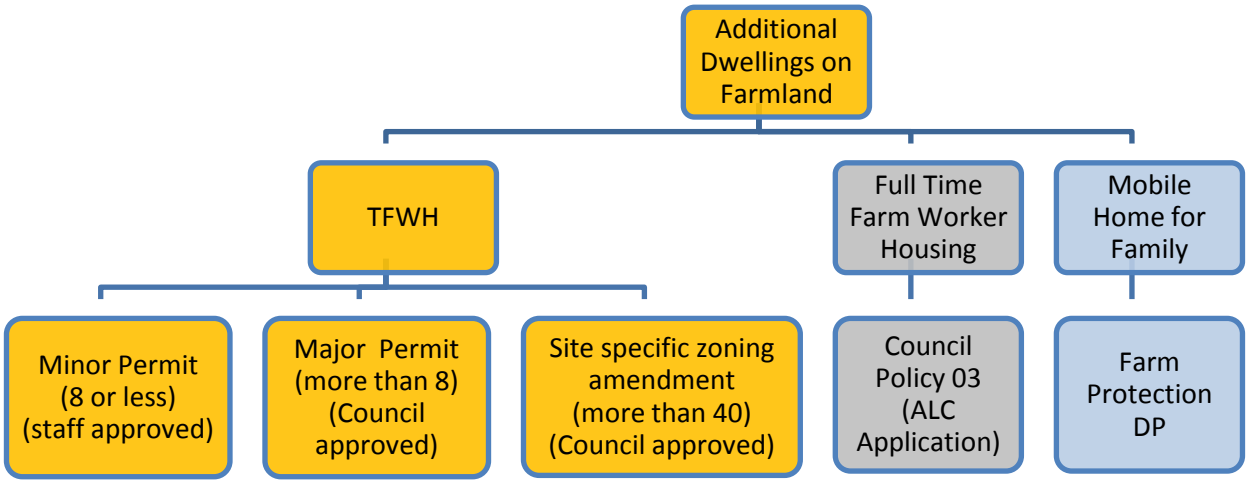
[4] Ministry of Agriculture, 2015. Guide for Bylaw Development in Farming Areas. http://www2.gov.bc.ca/assets/gov/farming-natural-resources-and-industry/agriculture-and-seafood/agricultural-land-and-environment/strengthening-farming/local-government-bylaw-standards/840000-1_guide_for_bylaw_development_in_farming_areas.pdf

- BC Fruit Growers Association
- BC Cherry Association
- Consulate General of Mexico
- Jamaican Liaison Services
- Agriculture Land Commission
- BC Ministry of Agriculture
- Interior Health
- Central Okanagan Economic Development Commission
- Central Okanagan Food Policy Council
- BC Cattlemen's Association
- BC Grape Growers
- BC Wine Grape Council
- Certified Organics Association of BC
- BC Honey Producers Association

A summary of input received to date is provided in Schedule E: Temporary Farm Worker Housing Policy Input Received.

It should be noted that these proposed amendments only address temporary farm worker housing. Applications for housing family or additional housing for full time farm employees are addressed through separate, established, policies as illustrated in Figure 2:

Figure 2: Application streams for additional dwellings on farmland



Proposed Policy:

The proposed amendments have the following objectives:

- Minimize the footprint 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;
- Ensure appropriate buffers to adjacent properties; and
- Measurable (e.g. number of workers, season of use, temporary farm worker housing footprint)

Given the input to date, staff have ensured that the proposed text amendments and policy changes reflect the Ministry of Agriculture's best practices and guidelines, and promote a regulatory environment that provides consistent and predictable regulations to all farm operators. The broader coordination with neighbouring local governments was also an effort to create a regional framework

where such regulations are equal across the board for the purposes of farm business planning. Additionally, the proposed regulations aim to situate temporary farm workers in locations where municipal infrastructure is readily available and where services/amenities are accessible for the workers. Overall, the goal is to support the economic aspects of temporary farm workers adding value to farm activities but to direct the financial investment of the corresponding housing units to locations and forms that preserve the long-term integrity of agricultural land as it relates to the OCP's growth strategy.

The proposed Official Community Plan amendments (Schedule A) introduce policy to:

- Encourage the location of farm help housing within the Permanent Growth Boundary;
- Ensure the TFWH footprint is contiguous with the farm residential footprint or within 50 meters of the road;
- Require all existing dwellings on the farm unit be utilized prior to construction of new dwellings; and
- Require a vegetated buffer to screen the temporary housing from property lines and active farming areas.

The following proposed Zoning Bylaw amendments (Schedule B) translate the policy direction of the OCP 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 housing footprint;
- Requirements to be met prior to issuance of a permit for TFWH;
- Maximum TFWH footprint size of 0.25 ha;
- The type of TFWH structures allowed; and
- Maximum number of 40 temporary farm workers per farm unit (applications for more than this would require a site specific zoning amendment application).

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

- Outlines procedures for a Temporary Farm Worker Housing Permit Minor Direct for eight or fewer sleeping units in one or more TFW agricultural dwellings which can be approved by City staff if all criteria are met; and
- Outlines procedures for a Temporary Farm Worker Housing Permit Major for all other applications to be reviewed by Council.

In summary, the goals of the proposed policy changes are to:

- Remove constraints to agriculture and improve agricultural viability;
- Support agriculture as part of the agricultural community's future;
- Minimize intrusion of non-agricultural uses into agricultural protection areas;
- Support opportunities for legitimate farm operations to provide adequate dwellings for farm workers; and
- Establish regulations and guidelines that are enforceable.

Next Steps:

Kelowna is one of only four farm bylaw communities in the province, and consequently, once the proposed amendments have received Third Reading by Council, they must be forwarded to the Minister of Agriculture for approval prior to the Final Adoption.

The Regional District of Central Okanagan (RDCO) is undergoing the process concurrently and plans to bring their amendments to the Regional Board for First Reading near the end of April. It should be noted that there are differences between the City of Kelowna and RDCO policies due to the differences in staff resources, current processes and urban/rural interface. The biggest difference noted is that the RDCO has put all of the policy within their Zoning Bylaw, while the City of Kelowna is proposing policy changes in three documents (OCP, Zoning, and Development Application Procedures Bylaw) to allow for flexibility. The overall intent of the amendments, however, remains the same.

The District of Lake Country and City of West Kelowna will consider the proposed policy as part of future reviews of their Zoning Bylaws.

In summary, the proposed regulations are comprehensive, thoughtful and have been arrived at through best practice research and farm operation evaluation. Given the potential negative impacts that housing can have on agricultural land, the proposed regulations and approval streams are deemed the best approach to regulate housing for farm workers and provide a framework that will support farm operators in their efforts to support successful farm operations while at the same time, avoiding unwarranted development from occurring under the pretense of farm help. These recommendations have been supported by both the Agricultural Land Commission and the Ministry of Agriculture (see attached Schedule F and G).

Internal Circulation:
Divisional Director, Community Planning and Real Estate
Community Planning Department Manager
Divisional Director, Communications and Information Services
Divisional Director, Corporate and Protective Services
Building and Permitting Manager
Long Range Planning Manager
Communications Advisor

Legal/Statutory Authority:
Local Government Act Part 14, Division 4 – Official Community Plans
Local Government Act Part 14, Division 4 – 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 required in addition to a required public hearing.

Existing Policy:
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:

- Agriculture is the principal use on the parcel, and
- The applicant demonstrates that he 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
Guideline 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.

City staff also consulted with the Agricultural Advisory Committee on two occasions (October 2016 and February 2017).

Agricultural Advisory Committee: February 9, 2017

> The draft Temporary Farm Worker Housing policies were reviewed by the Agriculture Advisory Committee at the meeting held on February 9, 2017 and the following recommendations were passed:
>
> Moved By Jeff Ricketts/Seconded By Ed Schiller
>
> THAT the Agricultural Advisory Committee recommends that Council lobby the Ministry of Agriculture to reduce the allowable parcel size for temporary farm worker housing from 3.8 hectares to 2.0 hectares in order to reflect what is actually happening in the agriculture industry.
>
> Carried
>
> Moved By Domenic Rampone/Seconded By Pete Spencer
>
> THAT the Agricultural Advisory Committee recommends that Council encourage the Regional District of Central Okanagan and the City of West Kelowna to join Kelowna in

[5] City of Kelowna. Kelowna 2030 Official Community Plan, Chapter 5: Development Process, page 5.35
[6] City of Kelowna. Kelowna 2030 Official Community Plan, Chapter 5: Development Process, page 5.36
[7] City of Kelowna. Kelowna 2030 Official Community Plan, Chapter 15: Farm Protection DP Guidelines, page 15.3

lobbying the Ministry of Agriculture to lowering the minimum parcel size for Temporary Farm Worker Housing from 4.0 ha to 2.0 ha.

Carried

Moved By Domenic Rampone/Seconded By Pete Spencer

THAT the Agricultural Advisory Committee recommends that Council support the draft policies for temporary farm worker housing that meets the needs of farmers, which adheres to provincial standards, in conjunction with a consistent regional approach, as presented by staff on February 9, 2017.

Carried

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

- BC Fruit Growers Association
- BC Cherry Association
- Consulate General of Mexico
- Jamaican Liaison Services
- Agriculture Land Commission
- BC Ministry of Agriculture
- Interior Health
- Central Okanagan Economic Development Commission
- Central Okanagan Food Policy Council
- BC Cattlemen's Association
- BC Grape Growers
- BC Wine Grape Council
- Certified Organics Association of BC
- BC Honey Producers Association

Communications Comments:
The requirements for consultation under Section 475 of the Local Government Act have been addressed in the following way:

- March 15, 2017 Official Community Plan webpage on kelowna.ca revised to explain proposed amendments and provide a contact for comments by March 31, 2017
- March 16, 2017 application file was referred to organizations affected (see previous section for list) with request for input by March 29, 2017.
- March 16, 2017 message forwarded to City of Kelowna e-subscribe recipients.
- March 17, 2017 ad placed in Kelowna Daily Courier, with comment deadline of March 31, 2017.
- March 24, 2017 ad placed in Kelowna Daily Courier, with comment deadline of March 31, 2017.

Considerations not applicable to this report:
Financial/Budgetary Considerations:
Personnel Implications:
Alternate Recommendation:

Submitted by:

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

Approved for inclusion: DNB/TC

cc:
Divisional Director, Community Planning and Real Estate
Community Planning Department Manager
Divisional Director, Communications and Information Services
Divisional Director, Corporate and Protective Services
Building and Permitting Manager
Long Range Planning Manager
Communications Advisor
Regional District of Central Okanagan, Ron Fralick
City of West Kelowna, Brent Magnan
District of Lake Country, Mark Koch
District of Peachland, Cory Gain

Attachments:

Schedule A:	OCP16-0022 List of Amendments to OCP Bylaw No. 10500 for TFWH
Schedule B:	TA16-0015 List of Amendments to Zoning Bylaw No. 8000 for TFWH
Schedule C:	TA16-0016 List of Amendments to Development Application Procedures Bylaw No. 10540 for TFWH
Schedule D:	Temporary Farm Worker Housing Policy Development Process
Schedule E:	Temporary Farm Worker Housing Policy Input Received
Schedule F:	Ministry of Agriculture Letter of Support and follow up email
Schedule G:	Agriculture Land Commission Letter of Support