

REPORT TO COUNCIL



Date: November 30, 2015

RIM No. 1210-21

To: City Manager

From: Community Planning Department (MS)

Application: A15-0011

Owner: Kristi Caldwell
James Caldwell

Address: 4275 Goodison Road

Applicant: Kristi Caldwell

Subject: Application to the ALC for a Non-Farm Use (Distillery and Wedding Ceremonies)

Existing OCP Designation: Resource Protection Area

Existing Zone: A1 - Agriculture 1

1.0 Recommendation

THAT Agricultural Land Reserve Appeal Application No. A15-0011 for *Lot B Section 34 TWP 29 ODYD Plan 43324*, located at 4275 Goodison Road, Kelowna for a 'Non-Farm Use', pursuant to Section 20 of the Agricultural Land Commission Act, NOT be supported by Municipal Council;

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

2.0 Purpose

To consider a Staff recommendation NOT to support an application to the Agricultural Land Commission (ALC) under Section 20(3) of the Agricultural Land Commission Act for a 'Non-Farm Use' within the Agricultural Land Reserve (ALR) to allow for a distillery, using primarily non-farm products, and wedding ceremonies on the subject property.

3.0 Community Planning

Staff does not support the application as proposed. Two non-farm uses are proposed:

- Wedding ceremonies; and
- Distillery - using primarily non-farm products.

The applicants are relatively new to farming, having inherited the farm from their parents in 2014. They have been successful in their production and sales to date of their market garden and their egg sales, and have plans for future expansion with three head of cattle, floral production and an apiary, planned for 2016.

The applicants have stated that their operation would be restricted to the following:

- Weddings will take place on existing lawn behind the house;
- No agricultural space will be used or affected;
- Weddings will be ceremonies only - no evening receptions or food or beverage;
- All parking for wedding guests would be accommodated on existing paved and gravel driveways;
- Ceremonies would be limited in to 100 persons maximum; and
- Bookings available on Saturday afternoons only, from May to September.

The applicants have estimated that their farm sales will be more than their income from weddings. This estimate assumes four weddings through the 2016 season. If as many as seven weddings occur, this income will exceed the farm income. This would result in the use becoming a primary use on the property, which is not permitted in the A1 - Agriculture zone.

The Ministry of Agriculture's '*Regulating Agri-tourism and Farm Retail Sales in the Agricultural Land Reserve - Discussion Paper and Proposed Minister's Bylaw Standards*'¹, indicates that 'commercial weddings (and any other commercial assembly activity)' are a non-farm use in the Agricultural Land Reserve. This document further outlines that: 'Agri-tourism uses and activities only augment a farmer's regular farm income, rather than exceed or replace it.'

Further, wedding ceremonies and commercial assembly activities are not a permitted use in the A1 - Agriculture 1 Zone under the *City of Kelowna Bylaw 8000*².

On June 15, 2015, an amendment to the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation*³ enabled distilleries to be a farm use within the ALR, provided that a minimum of 50% of the product was grown on the farm. In this case, the majority of the distilled product will be grains, grown on other BC farms. The flavourings, including juniper and lavender, will be grown on the farm.

Staff have concerns with the application include the challenge of managing the use to the limits put forth in the application. Time and number and scale of weddings are difficult to manage for bylaw enforcement. Wedding and commercial assembly operations can lead to future requests for parking or building expansions. Should adjacent farming operations change, conflicts could arise with respect to dust, noise or sprays, with wedding guests.

Staff acknowledges the efforts and progress that these young farmers have made over the last year in growing their farm operation. The application may be supportable when the farm operation has grown and the farm production has increased.

¹ Ministry of Agriculture, Sept. 14, 2015. *Regulating Agri-tourism and Farm Retail Sales in the Agricultural Land Reserve - Discussion Paper and Proposed Minister's Bylaw Standards*. 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/2015_09_14_agri-tourism_discussion_paper.pdf

² City of Kelowna, October 2015. Zoning Bylaw No. 8000. <http://apps.kelowna.ca/CityPage/Docs/PDFs/%5CBylaws%5CZoning%20Bylaw%20No.%208000/Section%2011%20-%20Agricultural%20Zones.pdf?t=083609234>

³ Province of BC, June 15, 2015. Order in Council 346/2015 Amendments to BC Regulation 171/2002. http://www.alc.gov.bc.ca/assets/alc/assets/legislation-and-regulation/the-act-and-regulation/oic_346_2015.pdf

The applicants also run tours through their farm of their historic farm machinery. Staff notes that this agri-tourism use is a farm use, permitted under Zoning Bylaw No. 8000, and under the ALC Regulation, and does not need a non-farm use authorization. This use is legal and can continue regardless of the ALC determination of this Non-Farm Use application.

4.0 Proposal

4.1 Background

The property was purchased in 1990 by Jake and Julie Warkentin, who developed the farm from primarily forested site into a cattle production operation. Upon their passing, the property was left to their daughter Kristi, son-in-law James and their two young daughters. They took ownership of the farm in 2014 and have begun a farming operation of their own.

4.2 Project Description

The applicants are requesting a Non-Farm Use to allow 0.1 acre (0.04 ha) for non-farm uses, including a distillery and wedding ceremonies. (See attached Applicant's Proposal Package). Since taking over the property, agricultural activities, including plantings of 0.5 acre (0.2 ha) include:

- 55 free range chickens;
- Vegetable production;
- Herb production; and
- Berry production.

In 2015, juniper was planted to provide for the proposed distillery. The distillery will include a 26 gallon mini-still to be located in an existing outbuilding. The grains are to be sourced from BC producers. Herb and berry flavourings, including lavender, strawberries, basil, mint, and juniper, will be produced on the farm.

The applicants would also like to hold wedding ceremonies on the property, to be held on the existing lawn of 0.1 acre (0.04 ha).

The applicants intend to broaden their agricultural activities with the inclusion of three head of cattle in the spring of 2016. In addition, they intend to add an apiary and floriculture to the operation.

The property has an extensive collection of historic farm equipment, industrial tools and antiques, which includes a small blacksmith shop, a tool museum and three farm equipment sheds. The applicants hold farm tours of the farm equipment. This is a farm use, permitted in the zone, and is not a use under application.

The applicants conducted a neighbourhood open house on April 1, 2015, to outline their proposal and request support. (See attached 'Neighbourhood Support' in the Applicant's Proposal Package).

4.3 Site Context

The subject property is located in the Southeast Kelowna Sector of the City and is within the Agricultural Land Reserve. The Future Land Use of the property is Resource Protection Area (REP). It is zoned A1 - Agriculture 1 (Maps 1 - 5, below) and is outside of the Permanent Growth Boundary. The property varies in elevation from 554 metres above sea level (masl) at Goodison Road, to 552 masl at the west property line, with a knoll rising to 569 masl in the northeast quadrant of the property.

Parcel Summary - 4275 Goodison Road:

Parcel Size: 2.5 ha (6.09 acres)

Elevation: 552 to 569 metres above sea level (masl)

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

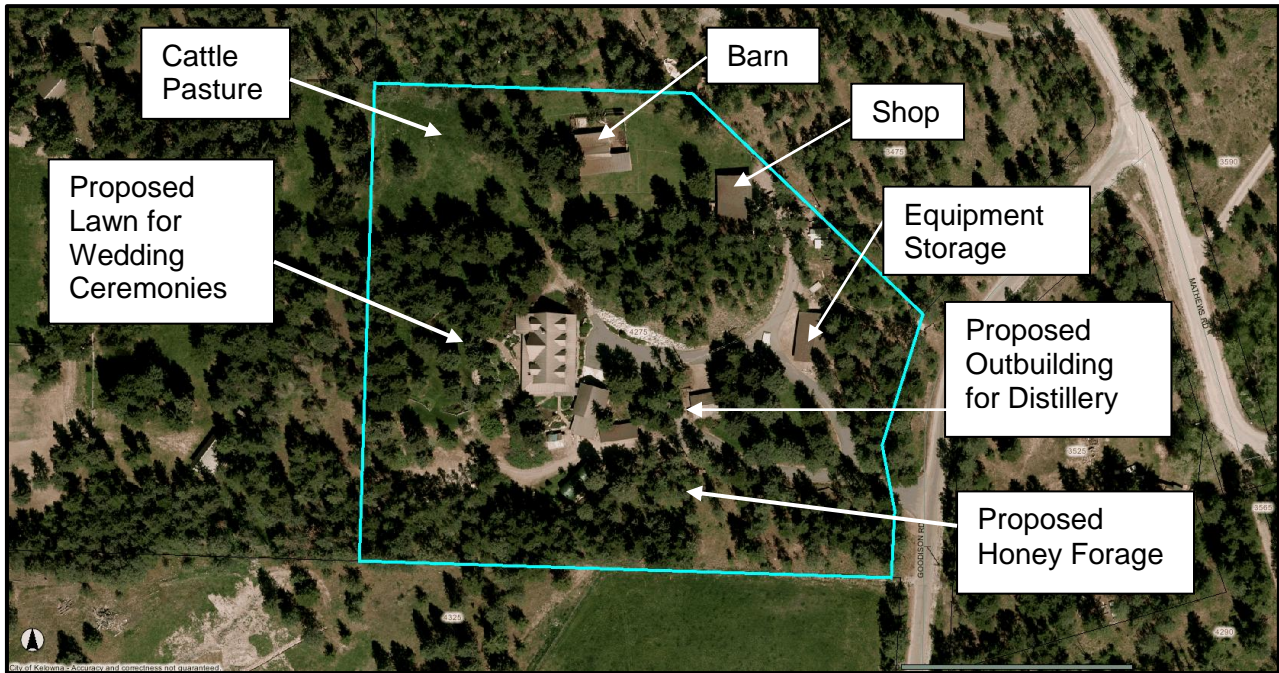
Table 1: Zoning and Land Use of Adjacent Property

Direction	Zoning	ALR	Land Use
North	A1 - Agriculture 1	Yes	Agriculture / Rural Residential
South	A1 - Agriculture 1	Yes	Agriculture / Rural Residential
East	A1 - Agriculture 1	Yes	Rural Residential
West	A1 - Agriculture 1	No	Agriculture / Rural Residential

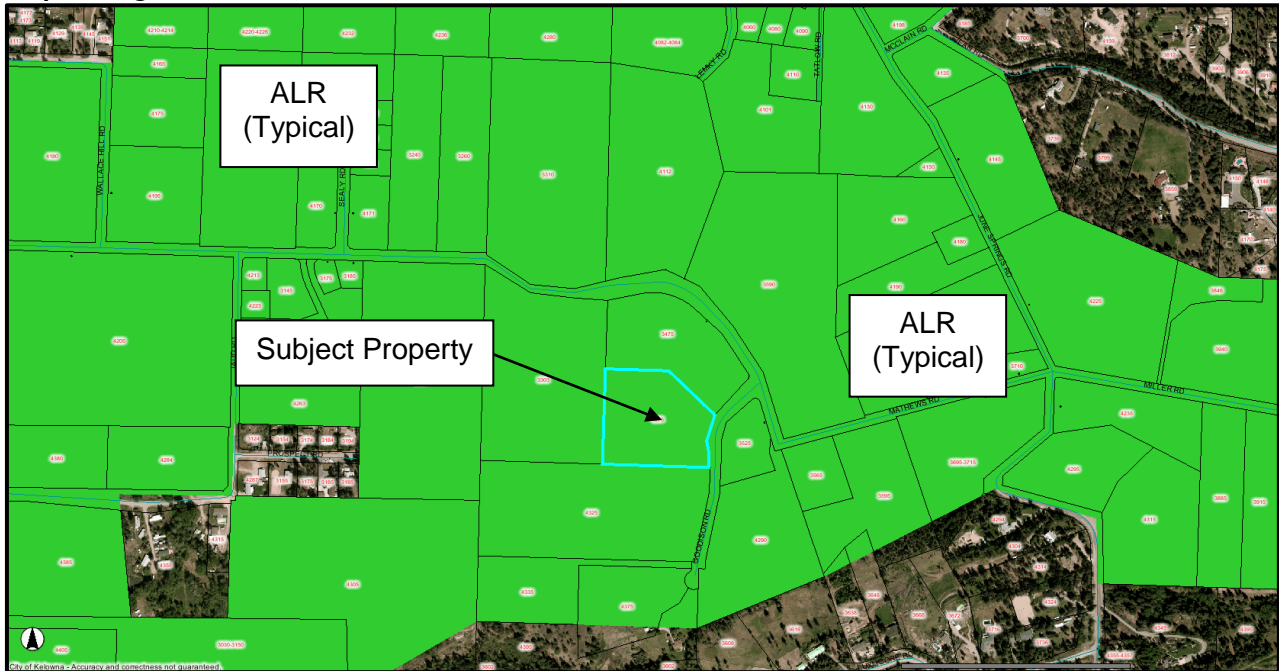
Map 1 - Neighbourhood



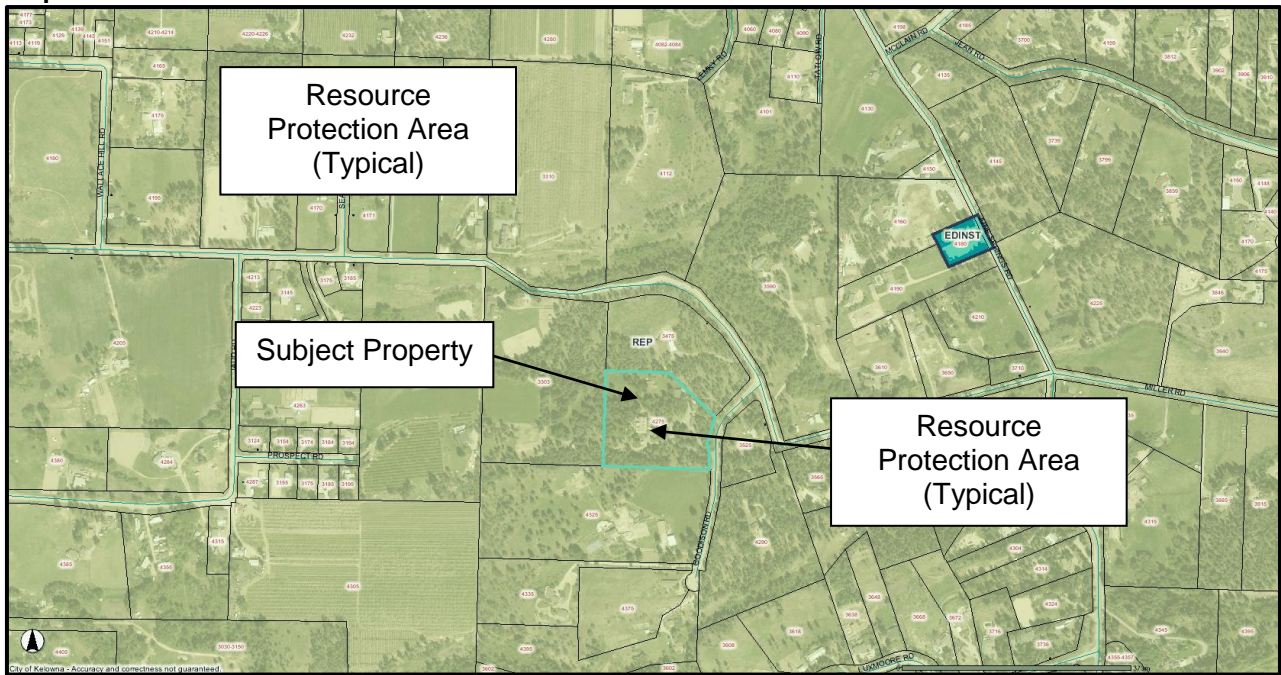
Map 2 - Subject Property



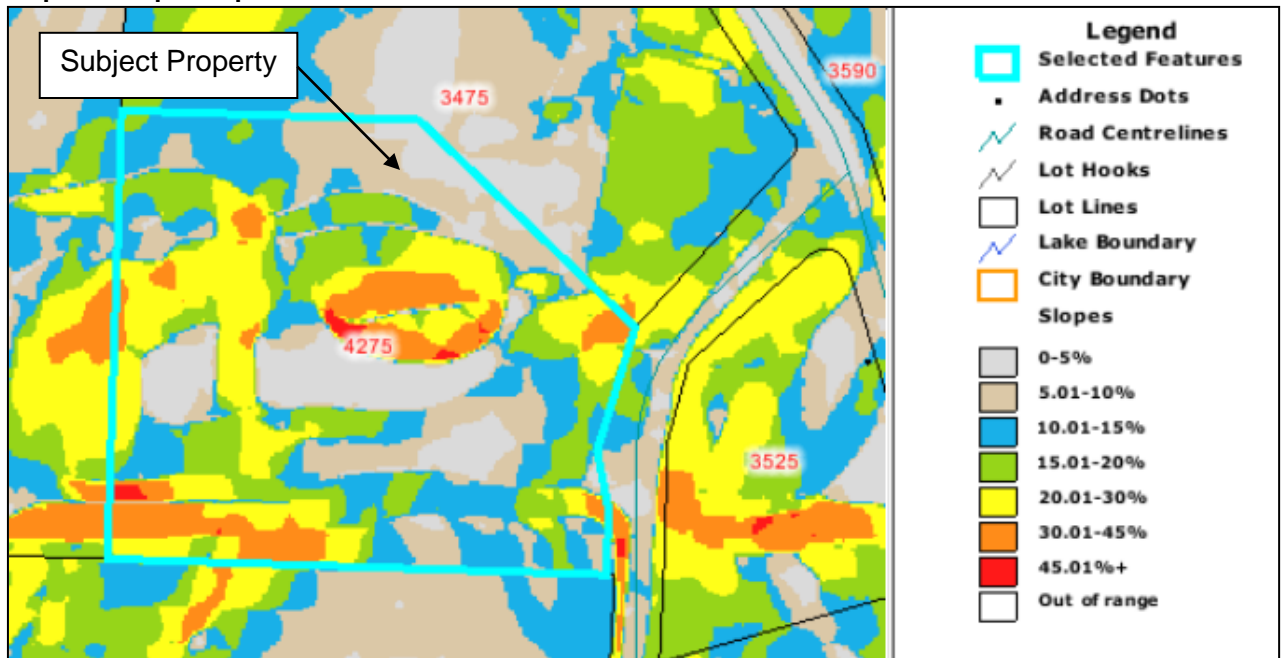
Map 3 - Agricultural Land Reserve



Map 4 - Future Land Use



Map 5 - Slope Map



5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Future Land Use⁴

With respect to lands outside the Permanent Growth Boundary, Chapter 4 of the OCP states:

- Lands outside the permanent growth boundary will not be supported for urban uses.

Farm Protection Development Permit Guidelines⁵

Farm Protection Development Permit Guidelines include:

- Protect farm land and farm operations;
- Minimize the impact of urban encroachment and land use conflicts on agricultural land;
- Minimize conflicts created by activities designated as farm use by ALC regulation and non-farm uses within agricultural areas.

The subject property has a future land use designation of Resource Protection Area and relevant policies are included below:

Objective 5.33 Protect and enhance local agriculture⁶.

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 .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.

Policy .7 Non-farm Uses. Support non-farm use applications on agricultural lands only where approved by the ALC and where the proposed uses:

- are consistent with the Zoning Bylaw and OCP;
- provide significant benefits to local agriculture;
- can be accommodated using existing municipal infrastructure;
- minimize impacts on productive agricultural lands;
- will not preclude future use of the lands for agriculture;
- will not harm adjacent farm operations.

Objective 5.34 Preserve productive agricultural land⁷.

5.2 City of Kelowna Agriculture Plan

ALR Application Criteria⁸

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

⁴ City of Kelowna Official Community Plan, Chapter 4.7 (Future Land Use).

⁵ City of Kelowna Official Community Plan, Chapter 15.2 (Farm Protection DP Guidelines).

⁶ City of Kelowna 2030 Official Community Plan: Greening Our Future (2011), Development Process Chapter; p. 5.33.

⁷ City of Kelowna 2030 Official Community Plan: Greening Our Future (2011), Development Process Chapter; p. 5.34.

⁸ City of Kelowna Agriculture Plan (1998); p. 130.

speculation and the cost of entering the farm business, and encouraging increased farm capitalization.

5.3 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.

6.0 Technical Comments

6.1 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.

7.0 Application Chronology

Agricultural Advisory Committee

November 12, 2015

The above noted application was reviewed by the Agricultural Advisory Committee at the meeting held on November 12, 2015 and the following recommendations were passed:

Moved By Yvonne Herbison/Seconded By Domenic Rampone

THAT the Agricultural Advisory Committee recommends that Council supports an application to the Agricultural Land Commission under Section 20(3) of the Agricultural Land Commission Act for a "non-farm use" within the Agricultural Land Reserve on the subject property at 4275 Goodison Road to have a distillery with primarily non-farm products and to host wedding ceremonies.

Carried

Jeff Ricketts - Opposed

ANECTODOTAL COMMENT:

The Agricultural Advisory Committee recommends that a covenant be established so that the distillery will be decommissioned and the wedding operations and distillery ceased once the

property is sold (non-farm use should be tied to the ownership of the property) and the footprint of the existing buildings not be expanded.

Date of Application Received: September 30, 2015

Date Public Consultation Completed: April 1, 2015

8.0 Alternate Recommendation

THAT Agricultural Land Reserve Appeal No. A15-0011 for *Lot B Section 34 TWP 29 ODYD Plan 43324*, located at 4275 Goodison Road, Kelowna for a Non-Farm Use in the Agricultural Land Reserve pursuant to Section 20(3) of the *Agricultural Land Commission Act*, be supported by Council, subject to the registration of a Section 219 Covenant registered on the property with the Land Title Office, that stipulates the following:

1. Weddings will take place on existing lawn behind the house;
2. No agricultural space will be used or affected by wedding use or distillery use;
3. No additional buildings or parking areas will be constructed;
4. Weddings will be ceremonies only - no evening receptions or food or beverage;
5. Ceremonies would be limited to 100 persons maximum;
6. Bookings available on Saturday afternoons only, from May to September; and
7. That the Non-Farm Use of wedding ceremonies and the distillery will cease when the owners sell that land, such that the use does not run with the land.

Report prepared by:

Melanie Steppuhn, Land Use Planner

Reviewed by:

☐

Todd Cashin, Subdivision, Suburban and Rural Planning Manager

Reviewed by
Approved for Inclusion:

☐

Ryan Smith, Community Planning Department Manager

Approved for Inclusion:

☐

Doug Gilchrist, Divisional Director, Community Planning & Real Estate

Attachments:

Subject Property Map

Applicant ALC Act Application for Non-Farm Use Supplementary Information

Neighbourhood Consultation