

# COMMITTEE REPORT



**Date:** August 10, 2017

**RIM No.** 1210-21

**To:** Agricultural Advisory Committee (AAC)

**From:** Community Planning Department (MS)

**Application:** A17-0006      **Owner:** Calvin Kuipers  
7 Kuiper's Holding Ltd.

**Address:** 3317 McCulloch Road      **Applicant:** Calvin Kuipers

**Subject:** Application to the ALC for a Non-Farm Use for Long Term Year Round RV Rentals

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## 1.0 Purpose

The applicant is requesting permission from the Agricultural Land Commission (ALC) for a Non-Farm Use to permit long term, year round rentals of recreational vehicles on the subject property.

## 2.0 Proposal

### 2.1 Background

The property has a variety of uses on the site in addition to the recreational vehicle (RV) park. This includes approximately five acres of wine grapes, fleece sheep, hair sheep, alpacas, chickens, and a market garden. The wine grapes were planted in 2009 and 2010. In 2016, the property received development and building permits for Frequency Winery, which is open and operating at the southeast corner of the property. Three acres of grapes are sold to the Vibrant Vine Winery, also in Southeast Kelowna<sup>1</sup>. As part of that development permit, a restrictive covenant was required to be registered on the parcel that stipulated the location of the RV park, to a maximum of eight sites only, and a maximum stay duration of 30 days, and an operation window from April 1<sup>st</sup> to October 30<sup>th</sup>.

In 2009, the applicant built a 10 unit agri-tourism recreational vehicle site, under the non-farm use allowed by the ALC. The use was intended to be accessory to other agri-tourism activities on farms in the Agricultural Land Reserve (ALR). The ALC policy also required the use to be temporary, with stays not greater than 30 days, and seasonal, such that the agri-tourism accommodation was not operated year round. Eight sites are currently operational, with direct hookups for water, septic and electricity. The facility has been illegally rented year round to residents who live on the property, and bylaw enforcement has been undertaken to address this. Through this application, the applicant is seeking to legalize the illegal use.

Under the ALC regulation, the use may be regulated or prohibited by local government bylaw. In 2010, the City of Kelowna adopted Bylaw 10269, regulated the siting and number of units permitted on a property

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<sup>1</sup> Wyn Lewis, 2017. Email to M. Collins – Land Use Planner (Agricultural Land Commission).

based on size of property. This facility preceded that bylaw. In 2016, City Council approved Bylaw 11265, which prohibited any further agri-tourism accommodation operations in the City. This was due to the number of abuses of the use, specifically with permanent, year round tenants as opposed to temporary, seasonal tenants that are visiting the property for an agri-tourism experience.

The City is currently undergoing litigation with respect to several agri-tourism accommodation RV parks in the City. According to the Agriculture Plan, ALC applications will generally not be supported as noted below:

*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 speculation and the cost of entering the farm business, and encouraging increased farm capitalization<sup>2</sup>.*

In addition, the OCP states the objective to 'Protect and enhance local agriculture'<sup>3</sup>. To this end, it lays out multiple policies, including Policy 5.33.6 regarding non-farm uses, whereby it states:

*that there should be support of 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.*

## 2.2 Project Description

The application is to request authorization from the Agricultural Land Commission to permit long term, year round rentals of recreational vehicles, specifically for low income individuals. The applicant has stated that he charges half the rate of many of the other existing year round RV parks.

The corner of the property where the RV park operates had been planted with table grapes and later apples, but were removed due to low success and replaced with summering cattle. The applicant has noted high groundwater at this corner of the property. The applicant notes that operating the RV park for tourists is difficult because of the constant turnover during their busy season of other farming activities. Sometimes the residents provide farm labour for the owners. The owners provide impromptu farm tours to tourists passing by on McCulloch Road.

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<sup>2</sup> City of Kelowna Agriculture Plan. 1998. P. 130.

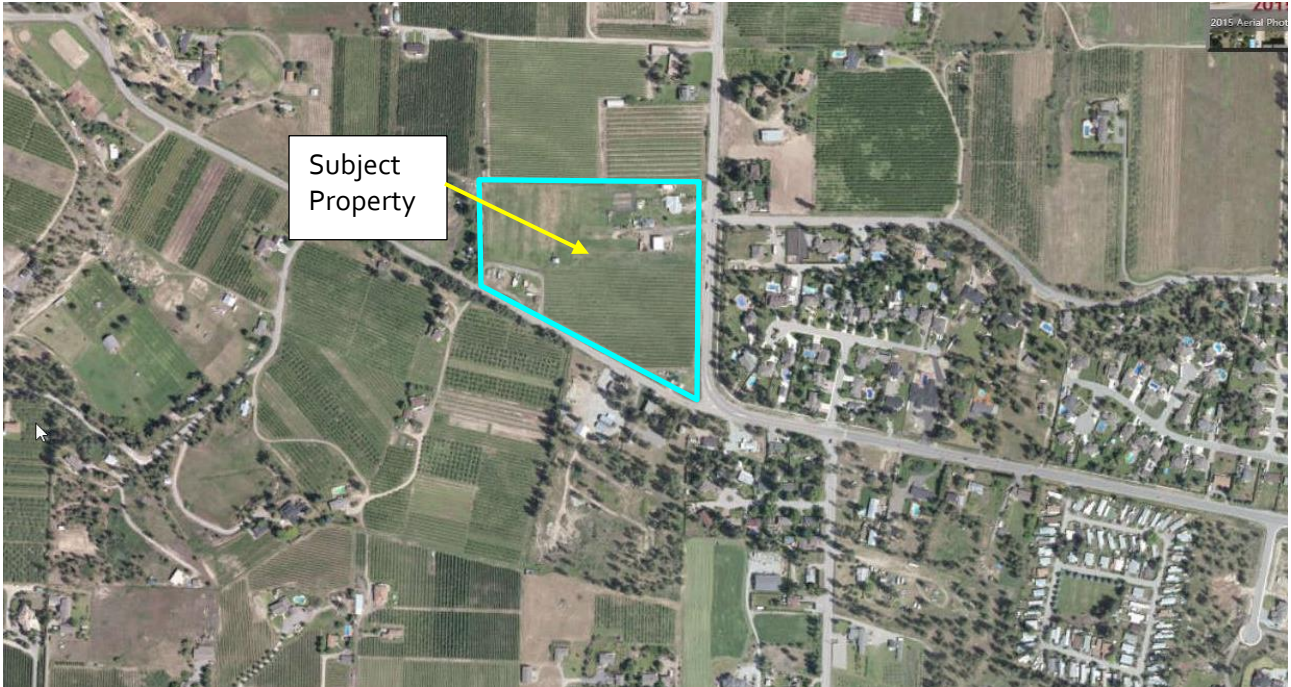
<sup>3</sup> City of Kelowna 2030 Official Community Plan: Agricultural Land Use Policies Chapter. P. 5.35.

### 2.3 Site Context

The property is in the Southeast Kelowna OCP Sector of the City, at the corner of McCulloch and Gully Roads.

Parcel Summary – 3317 McCulloch Road: Parcel Size: 5.7 ha (14.09 acres)

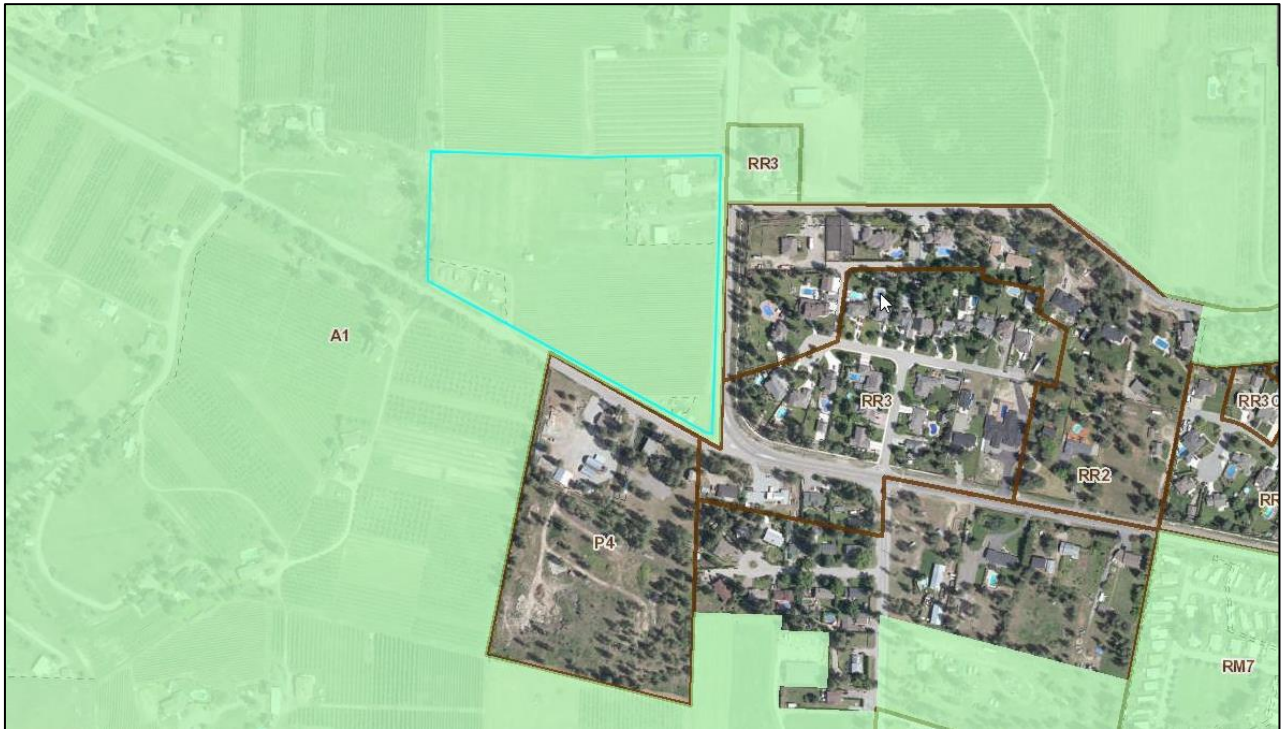
**Map 1 – Neighbourhood**



Map 2 – Subject Property – 3317 McCulloch Rd



**Map 3 – Agricultural Land Reserve**



2.4 Neighbourhood Context

The subject property lies within the Southeast Kelowna OCP Sector.

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 / Vineyard & Orchard
South	A1 – Agriculture 1 P4 –Utilities	Yes	Agriculture / Public Utility
East	RR2 – Rural Residential 2 and RR3 – Rural Residential 3	No	Rural Residential
West	A1 – Agriculture 1	Yes	Agriculture / Vacant

### 3.0 Community Planning

Both the City's Agriculture Plan and the OCP recommend general non-support for non-farm uses in the ALR. In addition, Council has taken the step of prohibiting the use of agri-tourist accommodation in the A1 – Agriculture 1 zone due to its frequent mis-use and not functioning for tourists as it was originally intended.

Council and staff are seeking a recommendation from the AAC with respect to the proposed non-farm use the use of recreational vehicles for long term, low cost housing in the ALR. The AAC should pay particular attention to City and ALC policies with respect to non-farm uses in general and agri-tourist accommodation specifically.

In addition, the AAC should consider potential impacts to agricultural land City-wide should this precedent be established. That is to say, the AAC should consider the impact of allowing for recreational vehicles for long term low cost housing in the ALR, and potential impacts to farmland and farming operations.

#### Report prepared by:

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Melanie Steppuhn, Land Use Planner

Approved for Inclusion:



Todd Cashin, Suburban & Rural Planning Department Manager

#### Attachments:

Schedule A – Policies  
Applicant Package  
Site Photos

# SCHEDULE A - Policies



**Subject:** 3317 McCulloch Road

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## 3.1 City of Kelowna Agriculture Plan (1998)

### **ALR Application Criteria<sup>4</sup>**

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

### 1.1 City of Kelowna Strategic Plan

**Objective<sup>5</sup>: Sensitively integrate new development with heritage resources and existing urban, agricultural and rural areas.**

Action towards this objective<sup>6</sup>: Evaluate the effectiveness of City policies and bylaws in preserving agricultural lands.

### 1.3 Kelowna Official Community Plan (OCP)

#### **Land Use Designation Definitions**

#### **Resource Protection Area<sup>7</sup>**

Generally, land areas within this designation (whether they are within the permanent growth boundary or not) will not be supported for exclusion from the ALR or for more intensive development than that allowed under current zoning regulations, except in specific circumstances where the City of Kelowna will allow exceptions to satisfy civic objectives for the provision of park/recreation uses.

#### **Permanent Growth boundary<sup>8</sup>**

Lands within the permanent growth boundary may be considered for urban uses within the 20 year planning horizon ending 2030. Lands outside the permanent growth boundary will not be supported for urban uses.

#### **Protect and enhance local agriculture<sup>9</sup>.**

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<sup>4</sup> City of Kelowna Agriculture Plan. 1998. P. 130.

<sup>5</sup> City of Kelowna Strategic Plan. 2004. P. 7.

<sup>6</sup> City of Kelowna Strategic Plan. 2004. P. 29.

<sup>7</sup> City of Kelowna 2030 Official Community Plan. Future Land Use Chapter. P. 4.2.

<sup>8</sup> City of Kelowna 2030 Official Community Plan. Future Land Use Chapter. P. 4.6.

<sup>9</sup> City of Kelowna 2030 Official Community Plan: Greening Our Future (2011), Development Process Chapter; p. 5.33.

## **Chapter 5 – Development Process**

### **Objective 5.3 Focus development to designated growth areas.**

**Policy .1 Permanent Growth Boundary**<sup>10</sup>. Establish a Permanent Growth Boundary as identified on Map 4.1 and Map 5.2. Support development of property outside the Permanent Growth Boundary for more intensive uses **only** to the extent permitted as per the OCP Future Land Use designations in place as of initial adoption of OCP Bylaw 10500, except as per Council’s specific amendment of this policy. Resource Protection Area designated properties not in the ALR and outside the Permanent Growth Boundary will not be supported for subdivision below parcel sizes of 4.0 ha (10 acres). The Permanent Growth Boundary may be reviewed as part of the next major OCP update.

## **Agricultural Land Use Policies**

### **Objective 5.33 Protect and enhance local agriculture**<sup>11</sup>.

**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 .2 ALR Exclusions.** The City of Kelowna will not forward ALR exclusion applications to the ALC except in extraordinary circumstances where such exclusion is otherwise consistent with the goals, objectives and other policies of this OCP. Soil capability alone should not be used as justification for exclusion.

**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 .6 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.

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<sup>10</sup> City of Kelowna 2030 Official Community Plan. Development Process Chapter. P. 5.2.

<sup>11</sup> City of Kelowna 2030 Official Community Plan: Agricultural Land Use Policies Chapter. P. 5.35.



#### **1.4 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.