

REPORT TO COUNCIL



Date: October 23, 2017

RIM No. 1210-21

To: City Manager

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

Existing OCP Designation: REP – Resource Protection Area

Existing Zone: A1 – Agriculture 1

1.0 Recommendation

THAT Agricultural Land Reserve Appeal No. A17-0006 for Lot B Section 3 TWP 26 ODYD Plan 32710, located at 3317 McCulloch Rd, Kelowna for a subdivision of agricultural land in the Agricultural Land Reserve pursuant to Section 20(3) of the *Agricultural Land Commission Act*, NOT be supported by Council;

AND THAT Council directs Staff NOT 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 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.

3.0 Community Planning

Staff does not support the application as proposed. The OCP recommends general non-support for non-farm uses in the ALR, unless there is a direct and significant benefit to agriculture. 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.

Further, the OCP policy directs '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'.¹

In addition, regarding affordable housing, while we are exploring many options to address the housing needs of our community, we are not currently exploring looking for permanent housing options on ALR lands.

¹ City of Kelowna 2030 Official Community Plan. Policy 5.33.3.

The proposal does not meet the criteria for support of Non-Farm Uses outlined in OCP, which states:

*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.*

4.0 Proposal

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.

4.1 Background

Years ago, 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.

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. In addition three acres of grapes are sold to the Vibrant Vine Winery, also in Southeast Kelowna².

As part of the development permit for the Frequency Winery³, the owner agreed to register a restrictive covenant on the parcel that outlined the conditions of the RV Park, as well as the winery, and the Farm Residential Footprint. With respect to the operation of the RV Park, the covenant specifies that the RV Park must:

- Have a maximum of eight sites for RVs only;
- May operate from April 1st to October 31st only (Seasonal);
- May not have stays longer than 30 days (Temporary); and
- May not store Recreational Vehicles within the Agri-tourist Accommodation footprint.

In 2009, the applicant built the 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, (no stays longer than 30 days); and
- seasonal, (not year round).

² Wyn Lewis, 2017. Email to M. Collins – Land Use Planner (Agricultural Land Commission).

³ City of Kelowna, 2016. Development Permit for Frequency Winery – 3317 McCulloch Road DP16-0034

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 incurred 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 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.

A brief history of agri-tourism accommodation in the ALR within the City follows in Table 1, below.

Table 1: History of Agri-tourism Accommodation in the ALR

Year	Agency	Action	Result
2003	Province of BC	Included agri-tourist accommodation as a permitted non-farm use in the ALC Regulation, one that can be regulated or prohibited by local government.	13 Agri-tourist Accommodation operations built through this regulation, including the subject property.
2010	City of Kelowna	Approved the A1t – Agriculture 1 with Agri-tourist Accommodation zone, which outlined specific regulations for agri-tourist operations in the City .	2 properties received the A1t zone between 2010 and 2016.
2016	City of Kelowna	Removed the A1-t – Agriculture 1 with Agri-tourist Accommodation zone as a permitted use in the A1 zone.	No additional agri-tourist operations since 2017.

4.2 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.

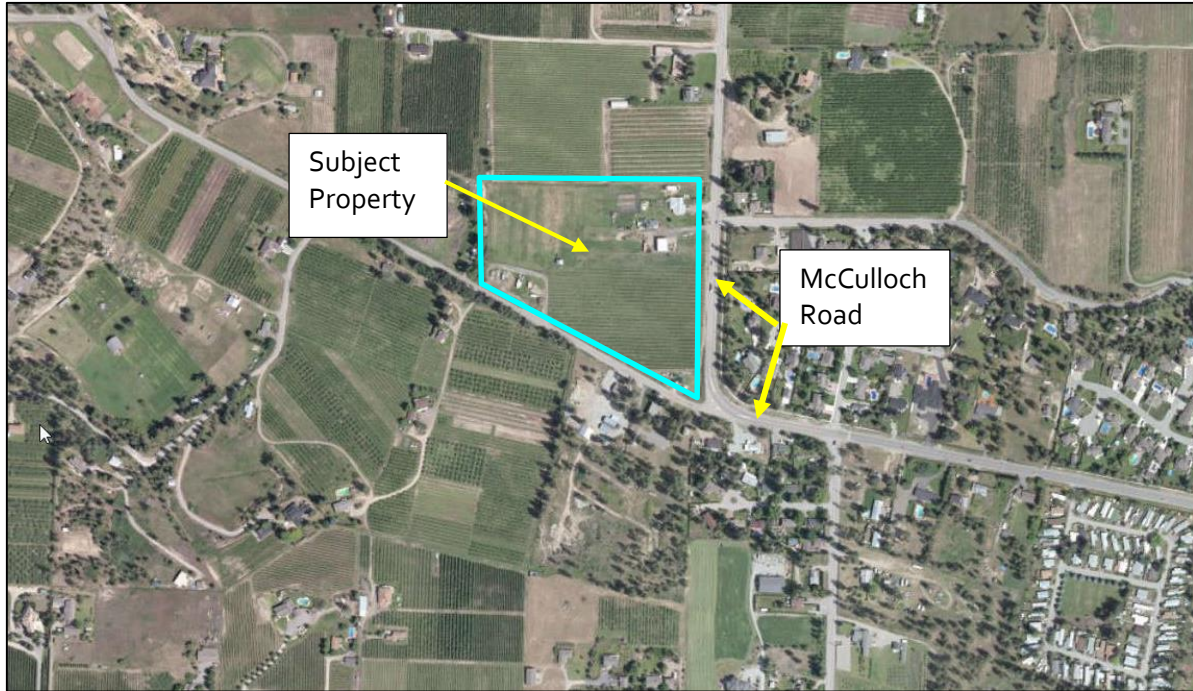
Should Council and the ALC approve the use, a site specific zoning amendment would be required to authorize the use through the zoning bylaw, and the existing Section 219 Covenant on the property would need to be amended or replaced.

4.3 Site Context

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

Parcel Size: 5.7 ha (14.09 acres)

Map 1 – Neighbourhood



Map 2 – Subject Property – 3317 McCulloch Rd



Map 3 – Subject Property – 3317 McCulloch Rd



Map 4 – Agricultural Land Reserve



4.4 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

5.0 Current Development Policies

5.1 Agriculture Plan (2017)

Appendix D Table 1 – Recommended Official Community Plan Updates⁴

Action 1.1c Restrict non-farm uses that do not directly benefit agriculture. Only support non-farm uses in farm areas that have a direct and ongoing benefit to agriculture or meet essential requirements of municipal government.

5.2 City of Kelowna Strategic Plan

Objective⁵: Sensitively integrate new development with heritage resources and existing urban, agricultural and rural areas.

Action towards this objective⁶: Evaluate the effectiveness of City policies and bylaws in preserving agricultural lands.

5.3 Kelowna Official Community Plan (OCP)

Land Use Designation Definitions

Resource Protection Area⁷

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 boundary⁸

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.

⁴ City of Kelowna, 2017. Agriculture Plan - Appendix D Table 1 – Recommended Official Community Plan Updates p. 44

⁵ City of Kelowna Strategic Plan. 2004. P. 7.

⁶ City of Kelowna Strategic Plan. 2004. P. 29.

⁷ City of Kelowna 2030 Official Community Plan. Future Land Use Chapter. P. 4.2.

⁸ City of Kelowna 2030 Official Community Plan. Future Land Use Chapter. P. 4.6.

Chapter 5 – Development Process

Objective 5.3 Focus development to designated growth areas.

Policy .1 Permanent Growth Boundary⁹. 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 agriculture¹⁰.

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 .6 Non-Farm Uses. 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.

1.3 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.

⁹ City of Kelowna 2030 Official Community Plan. Development Process Chapter. P. 5.2.

¹⁰ City of Kelowna 2030 Official Community Plan: Agricultural Land Use Policies Chapter. P. 5.35.

6.0 Technical Comments

6.1 Regional District of the Central Okanagan

The year-round RV Park is not in keeping with Regional District of Central Okanagan Regional Growth Strategy Bylaw No. 1336, 2013. Specifically, Policy No. 3.2.5.2: "Preserve and support sustainable agricultural activities and land base that enhances local agriculture through the strengthening of best practices, support of local and regional food systems and the expansion of local food markets and agri-tourism".

Regional District staff notes that policies within the RDCO's Official Community Plans discourage the proliferation of non-farm residential development or use (ie. Section 14, Policy 2.16, Ellison OCP Bylaw No. 1124). The proliferation of small RV parks on agricultural land was a concern for the Regional District around 2010. RDCO staff recommended RVs not be permitted as a form of tourist accommodation, and the Zoning Bylaw and Joe Rich RLUB were amended accordingly.

Support and approval of this application could set an unwanted precedent (ie: year-round occupancy of RV's on ALR land) resulting in many other landowners seeking similar approvals.

6.2 Development Engineering Department

See attached Development Engineering Memo dated July 25, 2017.

6.3 Policy and Planning

In terms of affordable housing, while we are exploring many options to address the housing needs of our community, we are not currently exploring looking for permanent housing options on ALR lands.

6.4 Bylaw Services

There are no current open bylaw files on the property. Bylaw is waiting the outcome of the non-farm use application to determine if winter use has been approved.

6.5 Fire Department

The current RV Park is disorganized and has no appropriate access for emergency vehicles. I would suggest proper pads and a road system would be appropriate. The closest fire hydrant is 200 metres from the RV Park. A fire hydrant may need to be installed should the non-farm use be approved.

6.6 Interior Health Authority

The full circulation response from Interior Health Authority is attached. A summary is included below.

Healthy Food System

It appears that this application for non-farm use in the ALR will not increase food security. Food security has been recognized as a key public health issue by the BC Ministry of Health. Interior Health ensures the delivery of key government priorities to increase and advance food security.

Any non-farm uses in the ALR should support agricultural capacity and provide significant benefit to agriculture. The operation of RVs parks in the ALR has the potential to negatively impact agriculture.

Healthy Housing

Interior Health and the City of Kelowna are currently in the process of developing a Health Housing Strategy with a focus on affordability and supply and rental housing market. We recognize that vulnerable people need appropriate, affordable and safe housing.

The proposed use of the RV park as an affordable housing option in Kelowna does not align with healthy neighborhood design and health housing planning principles:

- Having access to a variety of amenities within close proximity of home makes active transportation or recreational physical activity more convenient. The proposed permanent RV park is outside the Permanent Growth Boundary, which would make accessing amenities with active transportation more difficult.
- Ensuring adequate housing quality for all segments of society. Poor quality housing is characterized by hazards that increase the risk of unintentional injuries such as burns and physical trauma. This can be prevented by ensuring that people live in good quality housing, which will largely benefit people of low socioeconomic status who generally live in poor quality housing. Living in adequate quality housing is strongly associated with an increased sense of safety, decreased crime, and improved social connections, when compared to living in poorer quality housing. These factors help people enjoy better health and improved quality of life. The proposed RV park may not provide good quality housing for people of low socioeconomic status.

6.7 Southeast Kelowna Irrigation District

The existing facility is adequately serviced and SEKID has no further comments.

7.0 Application Chronology

Date of Application Complete: May 1, 2017

Agricultural Advisory Committee August 10, 2017

The above noted application was reviewed by the Agricultural Advisory Committee at the meeting held on August 10, 2017 and the following recommendations were passed:

Moved by Yvonne Herbison/ Seconded by Domenic Rampone

THAT the Agricultural Advisory Committee recommends that Council NOT support Agricultural Land Reserve Application No. A17-0006 for the property located at 3317 McCulloch Road, Kelowna, BC to request permission from the Agricultural Land Commission for a Non-Farm Use to permit long term, year round rentals of recreational vehicles on the subject property.

Carried

ANEDOTAL COMMENTS:

The Agricultural Advisory Committee expressed concerns with setting a precedence that ALR land be the solution for low cost housing in Kelowna. The Committee also expressed concerns that other RV site applications could come forward suggesting that sections of their farm land was not suitable for farming and suggested this land could be used for other agricultural activities. The Committee noted that this application does not support agriculture or the preservation of Agricultural land.

8.0 Alternate Recommendation

THAT Agricultural Land Reserve Appeal No. A17-0006 for Lot B Section 3 TWP 26 ODYD Plan 32710, located at 3317 McCulloch Rd, Kelowna for a subdivision of agricultural land in the Agricultural Land Reserve pursuant to Section 20(3) of the Agricultural Land Commission Act, be supported by Council;

AND THAT Council directs Staff to forward the subject application to the Agricultural Land Commission for consideration;

AND THAT should the ALC approve the use, the use on the property be subject to:

- Rezoning for the site permitting the use on the property; and
- The Issuance of a Farm Protection Development Permit to address buffering for the RV site.
- The requirements from the Development Engineering Department related to this file dated July 25, 2017

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:

Applicant Package

Site Photos

Interior Health Authority Letter