



Regional Board Report

TO: Regional Board

FROM: Todd Cashin
Director of Community Services

DATE: July 29, 2019

SUBJECT: Agriculture Land Commission Application (A-19-02)
B. & S. Sandher (owners)
3231 Old Vernon Road, Central Okanagan East Electoral Area

Voting Entitlement: *All Directors – Unweighted Corporate Vote – Simple Majority - LGA 208.1*

Purpose: To obtain Agricultural Land Commission approval for a Non-Adhering Residential Use.

Executive Summary:

The subject property, a part of a large agricultural operation which utilizes migrant farm workers, currently provides accommodation for approximately 54 farm workers on-site. This allows for operational efficiencies as well as social benefits for workers. The owners previously received conditional approvals in 2013 and 2016 to permit temporary farm worker housing on the subject property. The housing was placed on the property prior to the Regional District's current Temporary Farm Worker Dwelling and Accommodation regulations. The TUP is expiring in 2019 and is not eligible for renewal; at time of preparing to submit a site-specific rezoning to recognize the occurring use, the owners determined that additional accommodation is required on the property.

Further to the existing units, the owners would like to add one more modular unit to the property for the purpose of worker accommodation. Under new ALC regulations, a Non-Adhering Residential Use approval is required. The new accommodation is proposed to add an additional 10 sleeping units to the property.

While there is inconsistency regarding the number of accommodations noted within the application and RDCO staff's discussion with the owners, no concerns have been identified at this time. The proposed site coverage is within the maximum permitted. A rezoning application is required regardless of whether the ALC approves the request for one additional mobile unit; water and septic servicing approvals will be confirmed at that time.

RECOMMENDATION:

THAT the Regional Board conditionally support application A-19-02, applicant B. & S. Sandher, to allow a non-adhering residential use to occur within the Agricultural Land Reserve pursuant to Section 34(4) of the Agricultural Land Commission Act, on part of the following property: The West 933 Feet of Lot 1, Plan KAP2963, Section 1, Township 23, ODYD;

AND THAT the Regional Board recommends the Agricultural Land Commission ensure:

- Preservation of large, contiguous areas of ALR land at the subject property;
- Clarification regarding the number of temporary farm worker accommodations existing and proposed; and
- The approval of a zoning bylaw amendment by the Regional Board.

AND FURTHER THAT the staff be directed to forward the subject application to the Agricultural Land Commission for consideration.

Respectfully Submitted:



Todd Cashin
Director of Community Services

Approved for Board's Consideration



Brian Reardon

Prepared by: Janelle Taylor, Planner

Implications of Recommendation:

Strategic Plan:	Conditional support of the referral application complies with Regional Board Strategic Priorities 2019-2022: <ul style="list-style-type: none"> • Sustainable Communities: Proposal provides a housing option.
Policy:	Conditional support of the Agricultural Land Reserve application complies with: <ul style="list-style-type: none"> • Regional Growth Strategy Bylaw No. 1336 • Ellison Official Community Plan Bylaw No. 1124 • Zoning Bylaw No. 871 • Agricultural Plan
Legal/Statutory Authority:	Conditional support of the Agricultural Land Reserve Application complies with Section 34 (4) of the <i>Agricultural Land Commission Act</i> .

Background:

History:

The property forms part of a large agricultural operation specializing in apple and cherry production that spans just over 860 acres of owned and leased properties located in the Okanagan. Due to the scope of their farming activities, migrant farm workers are a part of the operation and worker accommodation is essential.

The two cabins and two trailers were placed on the property prior to the Regional District's current Temporary Farm Worker Dwelling and Accommodation regulations. The owners previously received conditional approvals in 2013 and 2016 (File: TUP-13-02) to permit temporary farm worker housing (TFWH) for 18 workers in two trailers on the subject property. This application was precipitated due to ongoing difficulties faced by the landowners with respect to securing suitable TFWH. At the time, Zoning Bylaw No. 871 did not have provisions to allow TFWH.

On March 28, 2014, the Regional Board adopted a Zoning Bylaw text amendment to allow TFWH on properties subject to a specific list of conditions and requirements (Section 3.25 attached).

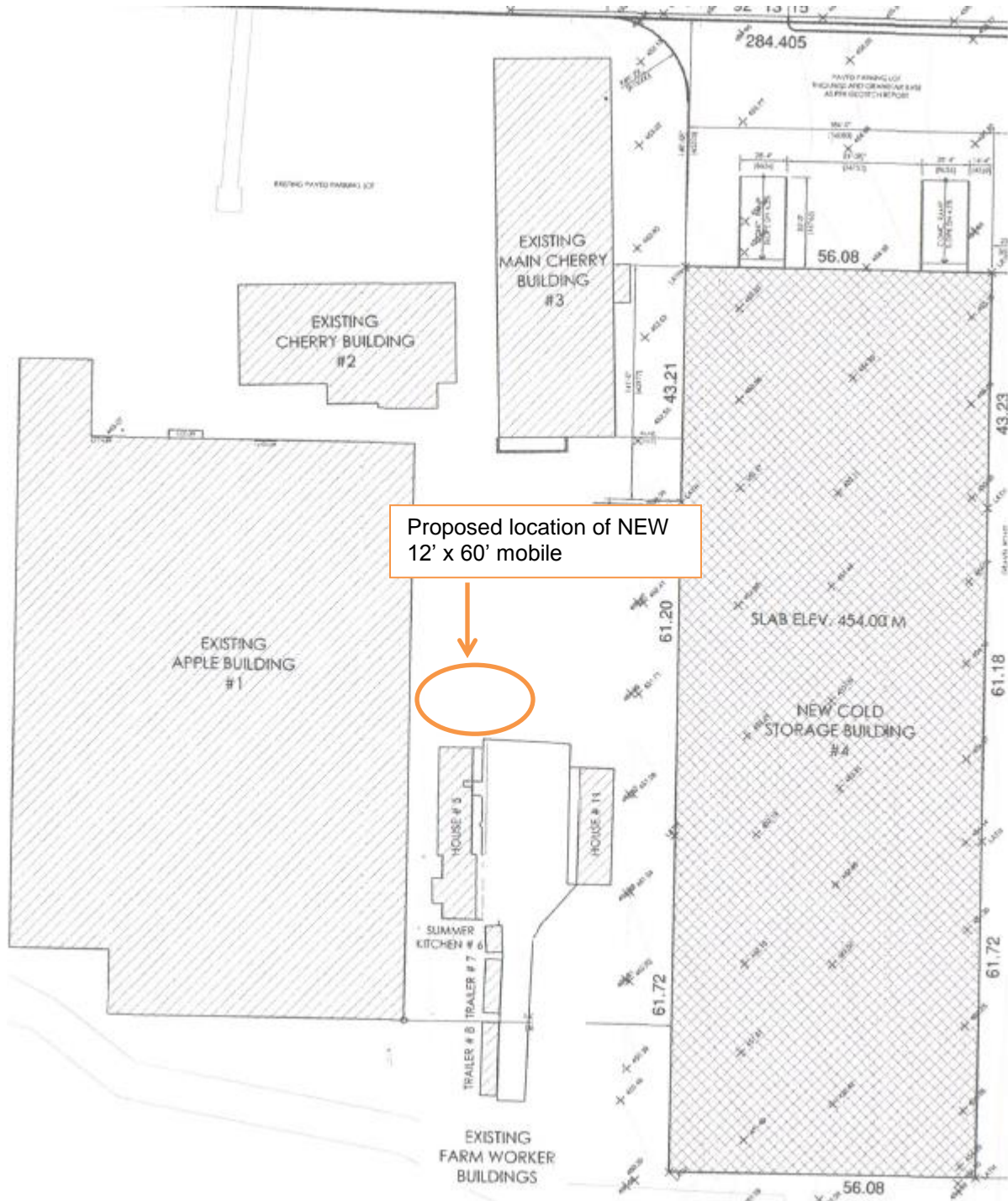
The TUP which permits worker accommodation within the existing two atco trailers is expiring in 2019 and not eligible for a renewal. At time of preparing to submit a site-specific rezoning to recognize the TFWH use occurring, the owners determined that additional accommodation is required on the property.

Proposal:

The owners would like to add one more modular unit to the property for the purpose of worker accommodation. Under new Agricultural Land Commission regulations, an ALC Non-Adhering Residential Use approval is required.

The owner has advised RDCO staff that the agricultural property currently provides accommodation for approximately 54 farm workers on-site within two atco trailers and two structures. The new accommodation is proposed to add an additional 10 sleeping units to the property.

Site Plan:



Servicing:Water

Black Mountain Irrigation District (BMID) provides the property with potable water. BMID has indicated that the agency can provide the RDCO with a Water Service Certificate (Water Letter) once the site has been reviewed by BMID Operations staff for confirmation that servicing is adequate and all development fees and charges have been paid.

Sewerage Disposal

The two existing cabins are each serviced by an on-site sewerage disposal system; there are no washroom facilities within the proposed mobile and the existing two atco trailers.

Site Coverage:

Should the additional mobile structure be added, the total site coverage for the subject property would be approximately 27%. The maximum site coverage permitted for parcels within the A1 Agricultural zone is 35%.

Seasonal Agricultural Worker Program:

The property owners have submitted the annual declaration for 2019 that they participate in the Government of Canada's Seasonal Agricultural Worker Program.

Regional Temporary Farm Worker Housing Regulation Review:

Regional District staff has worked collaboratively with Provincial agencies and member municipalities to review the Central Okanagan region's TFWH regulations with the intent of developing a consistent approach. Subsequent to the regional initiative commencing, the City of Kelowna adopted new TFWH regulations in 2017. RDCO, District of Lake Country, City of West Kelowna, and City of Kelowna jointly hosted an industry stakeholder workshop regarding farm worker housing April 2018; after which the City of West Kelowna adopted their new TFWH regulations.

It was anticipated that the Regional Board would consider bylaw revisions to Zoning Bylaw No. 871 by the end of 2018; however, the Province's Bill 52 – 2018: Agricultural Land Commission Amendment Act received Royal Assent on November 27, 2018. Bill 52 and the corresponding Agricultural Land Reserve General Regulation and Agricultural Land Reserve Use Regulation (approved February 22, 2019) brought about changes to residential uses occurring within the Agricultural Land Reserve, which affect TFWH.

In recognition that the Agricultural Land Commission changes affect TFWH, further review is required prior to staff recommending Zoning Bylaw No. 871 changes. The re-evaluation of Zoning Bylaw No. 871 TFWH regulations has been scheduled for the third quarter of 2019.

Agricultural Plan:

The Regional District's Agricultural Plan (approved June 2005) recognizes the need for seasonal farm worker housing in the region and includes a recommendation to explore options for providing a regulatory context to permit this use.

Ellison Official Community Plan Bylaw No. 1124:

- Objective No. 14.1.2 Support the preservation of the agricultural land base.
- Objective No. 14.1.5 Support the development, improvement, and expansion of agricultural activities.

Regional Growth Strategy Bylaw No. 1336:

The Central Okanagan has strong agricultural roots and this sector has been important in defining the region and its growth pattern. With changes in population, pressures of development, increased climate impacts, water pressures, and more focus on local food production for sustainability, these changes have raised more awareness on food systems from cultivating and planting to consumption to the compost heap, and back again.

Today, food policies appear on the agenda of dozens of municipal governments across North America and beyond. Future planning can help ensure food systems are adequately addressed in growth management decisions.

- The goal of Our Food: To support a regional food system that is healthy, resilient and sustainable.
- Policy No. 3.2.5.7: Protect the supply of agricultural land and promote agricultural viability.

Site Context:

The property is located within the Ellison Official Community Plan Bylaw No. 1124, and is unaffected by Development Permit Areas. The parcel is in the ALR, zoned A1 Agricultural, and is located within an area of active agriculture operations.

Additional Information:

Owners/Applicants:	B. & S. Sandher
Legal Description:	The West 933 Feet of Lot 1, Plan KAP2963, Section 1, Township 23, ODYD
Address:	3231 Old Vernon Road
Lot Size:	+/- 7.28 ha (18 acres)
Zoning:	A1 Agricultural
OCP Designation:	Agriculture
Proposed Site Coverage:	+/- 27%
Permitted Site Coverage:	35%
Sewage Disposal:	Septic System
Water Purveyor:	Black Mountain Irrigation District
Existing Use:	Agriculture
Surrounding Uses:	North: Agricultural South: Agricultural East: Agricultural West: Agricultural
A.L.R.:	Within the A.L.R.
Fire Protection:	Ellison Fire Protection Area

RDCO TECHNICAL COMMENTS:

Agricultural Advisory Commission supports the application as presented.

The AAC has concerns regarding the significant size and number of buildings which cover viable agricultural land.

Inspection Services staff indicates that a building permit for the proposed mobile is required. In accordance with the BC Building Code, the proposed size of the building would allow accommodation for seven people. CSA approval for the mobile camp unit is required.

Fire Services staff notes no concerns as the building permit process ensures the accommodations achieve fire code.

Bylaw Services staff advises that there are no concerns regarding the proposed placement of more temporary farm worker accommodations at 3231 Old Vernon Road. While complaints regarding the property have been received, they have been associated with unsightly premises and road/traffic visibility. No complaints have been associated with the existing TFWH.

Planning Services staff indicates that the TFWH is organized in a manner that allows for operational efficiency of a centralized site to coordinate and transport workers, plus the social benefit of common housing.

At time of considering the Temporary Use Permit (TUP-13-02), there was potential that RDCO's future Zoning Bylaw regulations may not fit the TFWH occurring on the subject property and the owners would be required to pursue alternative options, such as applying for a site-specific zoning amendment. The existing TFWH does not achieve the following RDCO Zoning Bylaw No. 871, Section 3.25 Temporary Agricultural Worker Dwellings and Accommodation regulations:

- The maximum building gross floor area on the property utilized for TFWH is greater than 250m².
- Two of the structures have permanent foundations.

At time of rezoning application, a survey certificate will be required to determine if the setbacks to the principal building have been achieved. In addition, RDCO staff will recommend that the Regional Board require the applicant to address servicing. For example, that a BMID Water Letter is received and a Registered Onsite Wastewater Practitioner confirms that the existing septic system(s) can adequately service the buildings.

AGENCY REFERRAL COMMENTS:

Ministry of Transportation and Infrastructure advises that the agency has no objection to the addition of one mobile camp. Parking and trip generation was considered as part of the review of the property owner's current access permit application.

Ministry of Agriculture staff provides the following comments for consideration:

- MOA staff supports the development of seasonal farm worker accommodation appropriate to the farm operation's agricultural activity.
- The MOA's 'Guide for Bylaw Development in Farming Areas' (Bylaw Guide) provides guidelines approved by the Minister for local governments when developing their bylaws regarding farm areas.
- In order to maximize the greatest long term potential for agriculture in the area, it is important to maintain the most optimal configuration of contiguous, productive land.

Black Mountain Irrigation District indicates that there is sufficient water for the proposal; currently the applicant has water rights to allow for 18 farm worker accommodations. To increase the water capacity, a Capital Expenditure Charge applies as per BMID Capital Expenditure Bylaw No. 706.

FortisBC advises that there are primary distribution facilities along Old Vernon Road and Scotty Creek Road. The applicant is responsible for costs associated with any change to the subject property's existing service, if any, as well as the provision of appropriate land rights were required. Otherwise, FortisBC has no concerns.

Interior Health Authority advises that the Healthy Built Environment Team has reviewed the proposal and has not identified any health impacts; therefore, IHA's interests are unaffected.

Unaffected Agencies include District of Peachland, District of Lake Country, City of Kelowna, City of West Kelowna, and BC Hydro.

Unaffected RDCO Departments include Parks Services and Environmental Services.

External Implications:

Development Applications Procedures Bylaw No. 944 does not apply. The applicant is subject to meeting the notification requirements of the ALC; however, public notification is not required.

Alternative Recommendation:

THAT the Regional Board NOT support application A-19-02, applicant B. & S. Sandher, to allow a non-adhering residential use to occur within the Agricultural Land Reserve;

AND THAT the Regional Board directs staff to NOT forward the subject application to the Agricultural Land Commission.

Considerations not applicable to this report:

- *General*
- *Organizational*
- *Financial*

Attachment(s):

- RDCO Maps: Subject Property, Orthophoto, ALR
- ALC Application Site Plan