



Regional Board Report

For the Public Hearing June 22, 2020

TO: Regional Board

FROM: Todd Cashin
Director of Community Services

DATE: June 22, 2020

SUBJECT: Zoning Amendment Bylaw No. 871-251
Application Z18/06 S. & P. Sandher (Owners)
4401 Old Vernon Road - Central Okanagan East Electoral Area

Purpose: To amend Zoning Bylaw No. 871 specific to Lot D, Plan KAP63914 to permit existing Temporary Agricultural Worker Dwellings and Accommodation that surpasses the maximum building gross floor area allowed on a single parcel and to vary setbacks.


Executive Summary:

The owners of Lot D, Plan KAP63914, DL 121 & 122, ODYD with a civic address of 4401 Old Vernon Road are requesting a site-specific rezoning to legitimize the existing temporary farm worker housing on the subject property. The owners previously received conditional approvals in 2013 and 2016 (File: TUP-13-01) to permit temporary farm worker housing placed on the property prior to the Regional District's current Temporary Farm Worker Dwelling and Accommodation regulations. The TUP has since expired and is not eligible for renewal.

To date, two letters of opposition have been received and no agency concerns have been identified at this time.

Respectfully Submitted:


Todd Cashin
Director of Community Services

Approved for Board's Consideration


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Background:

First Reading: The Regional Board granted First Reading to Zoning Amendment Bylaw No. 871-251 on July 18, 2019. On January 27, 2020, resolution #142/19 was amended such that scheduling of a Public Hearing be withheld pending receipt of the following:

- A draft covenant prohibiting new Temporary Agricultural Worker Dwellings and Accommodation on neighbouring parcels owned by S. & P. Sandher and/or S. Sundher Orchards Ltd; and,
- Written confirmation that a covenant which achieves Zoning Bylaw No. 871, Section 3.25.9 requirements will be registered prior to final adoption on the subject property.

RDCO staff received the required documentation confirming the two (2) covenants have been registered. As such, the application has now been scheduled for a Public Hearing.

Proposal:

The subject property forms part of a large agricultural operation specializing in apple and cherry production that spans just over 500 acres of owned and leased properties located in the North and Central Okanagan. Migrant farm workers are a necessary part of the operation. The agricultural property includes accommodation for approximately 102 farm workers on-site, which allows for operational efficiency of a centralized site to coordinate and transport workers, plus the social benefit of common housing.

The following is an overview of the accommodation provided on-site:

- 24 temporary farm worker housing (TFWH) located within three atco trailers (~1,300ft²),
- 18 TFWH located within an accessory home/agricultural dwelling (~2,034 ft²), and
- 60 TFWH located within a residential lodge (~5,180 ft²).

The image below identifies the buildings that comprise the temporary farm worker housing.



History:

The owners previously received conditional approvals in 2013 and 2016 (File: TUP-13-01) to permit temporary farm worker housing (TFWH) on the subject property. These applications were precipitated due to on-going 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 accessory home/agricultural dwelling, lodge and three atco trailers were placed on the property prior to the Regional District's current Temporary Farm Worker Dwelling and Accommodation regulations. The TUP has expired and is not eligible for a renewal; therefore, the applicant is requesting a site-specific rezoning to recognize the TFWH use occurring.

The TFWH at the subject property does not achieve the following provisions of Zoning Bylaw No. 871, Section 3.25 Temporary Agricultural Worker Dwellings and Accommodation:

- The maximum building gross floor area on the property utilized for TFWH is greater than 250m².
- The minimum setback from a parcel line is less than 15.0 m.
- The maximum setback from the principal building is greater than 15.0 m.
- Two of the structures have permanent foundations.

Servicing:

Water

Glenmore Ellison Improvement District provides the property with potable water. GEID has indicated that the owner has satisfied all requirements for the existing TFWH.

Sewerage Disposal

Through the building permit process, RDCO is in receipt of on-site sewerage disposal system information which confirms that the buildings are adequately serviced.

Currently, the 24 workers who reside in the 3 atco trailers use the washroom facilities located within the residential lodge; however, under direction from the Seasonal Agricultural Worker Program, the owners have submitted a Building Permit Application (File No. 19/092) to install a washroom facility adjacent to the 3 atco trailers for the workers' use. The proposed accessory building (non-residential) is a permitted use and has received approval from the Agricultural Land Commission as well as a Registered Onsite Wastewater Practitioner.

Seasonal Agricultural Worker Program:

The property owners have submitted the annual declaration for 2020 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.

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:

- Policy No. 14.2.11 Support the retention of large continuous blocks of agricultural land and discourage fragmentation.

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 and 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 in the Ellison Area and is accessed through the adjacent parcel at 4381 Old Vernon Road. Servicing includes the Ellison Fire Protection Area, on-site sewerage disposal system and water is provided by the Glenmore Ellison Improvement District. In accordance with the Ellison Official Community Plan Bylaw No. 1124, the property is not affected by Development Permit Areas.

Additional Information:

Owners/Applicants:	S. & P. Sandher
Legal Description:	Lot D, Plan KAP63914, DL 121 & 122, ODYD
Address:	4401 Old Vernon Road
Lot Size:	+/- 4.0 ha (9.91 acres)
Zone:	A1 Agricultural
Official Community Plan Designation:	Agriculture
Sewage Disposal:	Septic system
Water Purveyor:	Glenmore Ellison Improvement District
Existing Use:	Agricultural

Surrounding Uses:	North: Agriculture South: Agriculture East: Agriculture West: Agriculture
A.L.R.:	Within the A.L.R.
Fire Protection:	Within the Ellison Fire Protection Area

RDCO TECHNICAL COMMENTS (Presented at First Reading):

Agricultural Advisory Commission supports the application as presented.

The AAC appreciates that the accommodations have been consolidated into one area of the farm and does not disturb neighbours.

Inspection Services staff indicates that all TFWH has received approved building permits.

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

Bylaw Enforcement staff advises that no complaints have been received.

Planning Services staff indicates that at time of considering the Temporary Use Permit (TUP-13-01), 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 owners are utilizing buildings with permanent foundations which were constructed with building permits prior to the 2014 RDCO TFWH regulations coming into effect. The three atco trailers are on non-permanent foundations, which also have building permits.

As 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, it is proposed that a covenant be registered on the titles of the surrounding agricultural lands owned by the property owners to not permit new TFWH to be constructed on those properties.

RDCO staff reviewed the above-noted covenants with the property owners in the spring of 2019. The covenants should be registered prior to final adoption of the amendment bylaw.

AGENCY REFERRAL COMMENTS (Presented at First Reading):

Agricultural Land Commission staff indicates that an application for Non-Adhering Residential Use is not required as the landowners have existing valid building permits and the structures have been approved and existed on the property prior to the new regulations. Provided there is no expansion, the TFWH would be permitted without the need to make an application.

While not a part of this application, the ALC notes that the proposed washroom facilities (Building Permit Application No. 19/092) would be considered a necessary structure and ancillary services; therefore, no application to the ALC is required for the washroom/shower trailer to service the existing TFWH.

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.

Glenmore-Ellison Improvement District advises that the owner has satisfied all requirements GEID requested for the existing TFWH. GEID does not have any concerns with the proposed zoning amendment.

FortisBC advises that there are primary distribution facilities along Old Vernon Road and Black 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.

Unaffected Agencies include BC Hydro, City of Kelowna, Interior Health Authority, Ministry of Transportation and Infrastructure.

Unaffected RDCO Departments include Parks Services and Environmental Services.

RDCO TECHNICAL COMMENTS (Subsequent to First Reading):

Inspections Services staff advise that Building Permit Application No. 19/092 has since expired. A new application is required for the proposed washroom facilities.

Planning Services staff met with the property owners and discussed the proposed three (3) covenants prior to the bylaw being considered for first reading. At time of the owners exploring the draft covenants, it came to their attention that restricting the individual sale of the parcels would not be in the best interest of the farm operation. As such, the owners requested that the Regional Board not require a draft covenant restricting the individual sale of neighbouring parcels owned by S. & P. Sandher and/or S. Sundher Orchards Ltd. Given this request, on January 27, 2020, resolution #142/19 was amended and the requirement for this covenant removed.

Furthermore, Planning staff advise that the remaining two (2) covenants were reviewed with the property owners as well as legal counsel in the spring of 2020. The required documentation confirming that the covenants have been registered has been received.

External Implications:

In accordance with Development Applications Procedures Bylaw No. 944, a Notice of Application Sign has been posted. Subsequent to the Public Hearing notification process, up to and including the date of this report, no letters of support and two (2) letters of opposition have been received regarding this application.

Conclusion:

Should the Regional Board close the Public Hearing, the application will come forward with a separate report for Board consideration of further readings to the bylaw amendment.

Attachment(s):

- Zoning Amendment Bylaw No. 871-251
- Subject Property & Orthophoto Maps
- Site Improvement Survey, dated June 5, 2019
- Zoning Bylaw No. 871, Section 3.25
- Letters of Opposition