

City of Surrey
PLANNING & DEVELOPMENT REPORT

File: 7916-0604-00

Planning Report Date: March 6, 2017

PROPOSAL:

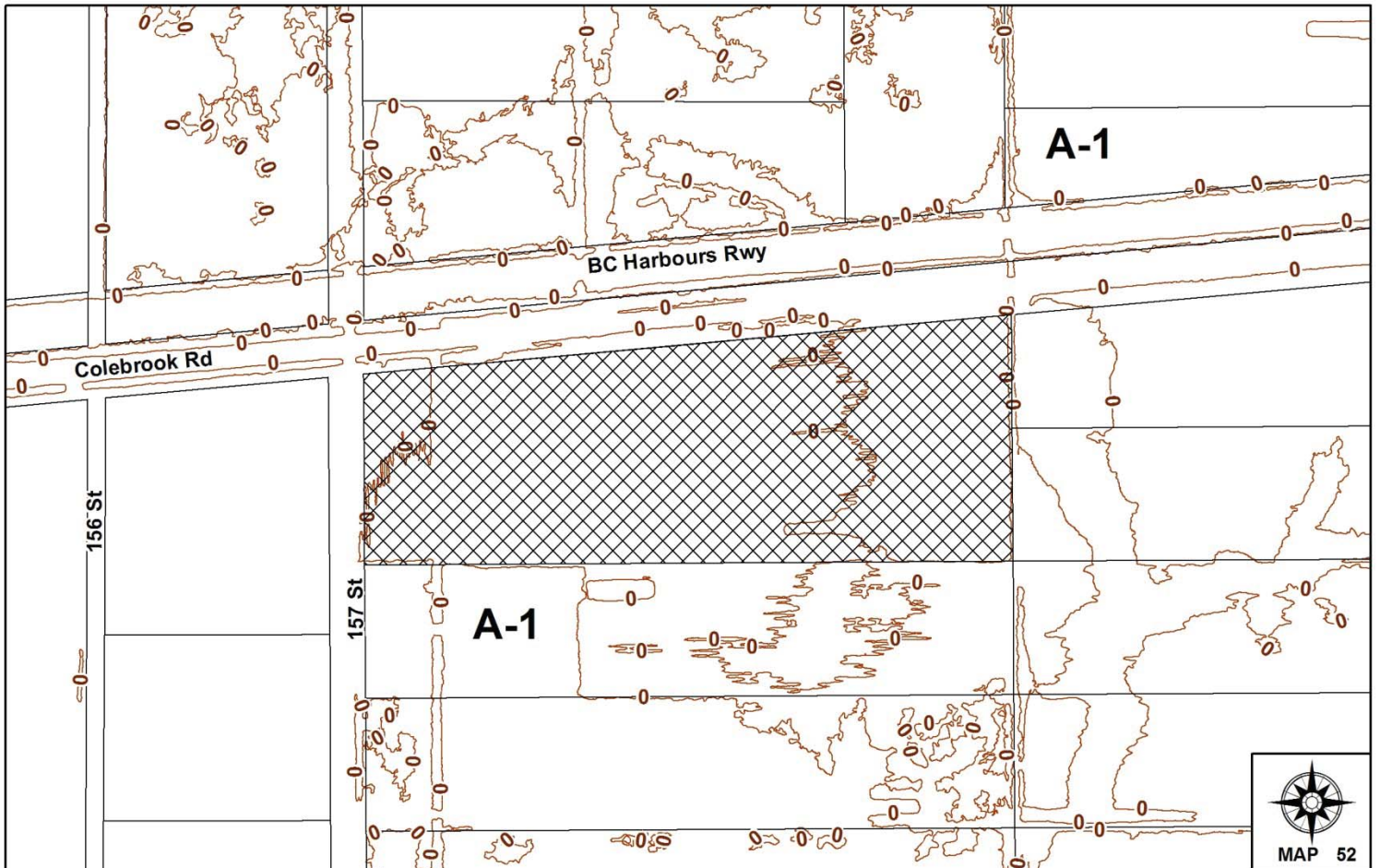
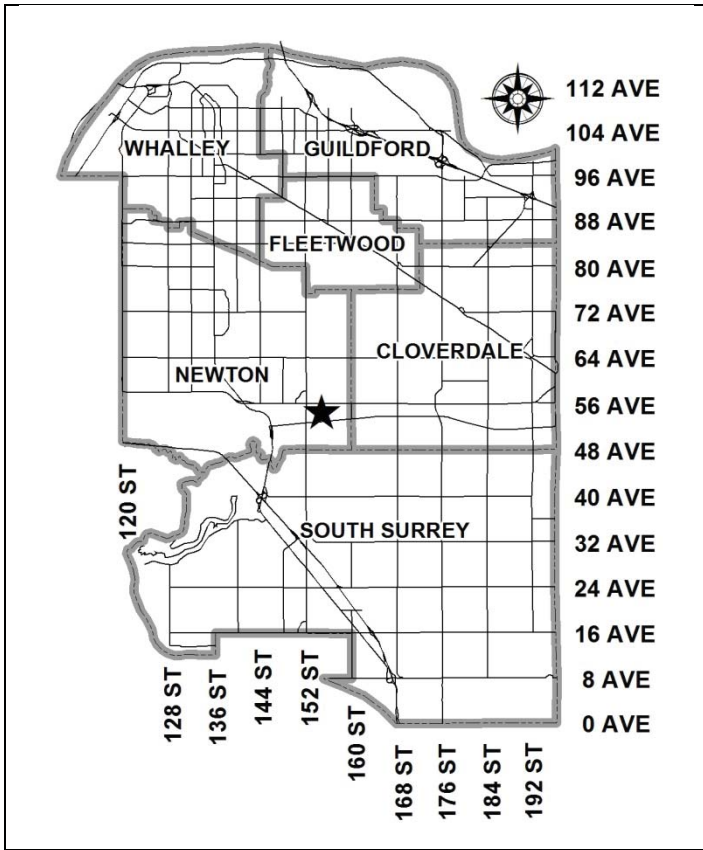
- **Non-farm use** under Section 20(3) of the ALC Act to permit the construction of a second dwelling on a farm site within the ALR.

LOCATION: 15832 - Colebrook Road

OWNER: Sukhvinder K. Aujla

ZONING: A-1

OCP DESIGNATION: Agricultural



RECOMMENDATION SUMMARY

- Refer the subject non-farm use application to the Agricultural Land Commission (ALC).

DEVIATION FROM PLANS, POLICIES OR REGULATIONS

- The applicant is seeking to construct a second dwelling on their farm property which is not permitted under Zoning Bylaw No. 12000.

RATIONALE OF RECOMMENDATION

- The applicant is proposing to construct a second dwelling on the subject farm property in order to accommodate family members, who are currently living in the existing dwelling and have other occupations, to continue residing at the farm and contribute to the farm operation on a part-time basis.
- Under Section 18 of the *Agricultural Land Commission Act* (ALC Act) a local government may not approve more than one residence on a parcel of land unless the additional residences are necessary for farm use. If there is any doubt with respect to the necessity of a second dwelling, an application under Section 20(3) of the ALC Act for permission for a non-farm use is required.
- The City does not employ anyone with the expertise to adequately evaluate if a given farm operation needs additional residence for farm help. Therefore, the City requests applicants seeking a second dwelling on their farm property submit a Non-Farm Use Application to the ALC under Section 20(3) of the ALC Act to help determine if there is a legitimate need.
- The City's Agriculture and Food Security Advisory Committee reviewed the proposal for the second dwelling and recommended that the non-farm use application be brought forward to Council for their consideration, in order to forward the application to the ALC.

RECOMMENDATION

The Planning & Development Department recommends that Council refer the application to the Agricultural Land Commission, without comment.

REFERRALS

Agricultural and Food Security Advisory Committee (AFSAC): The project was reviewed at the February 2, 2017 AFSAC meeting wherein the Committee recommended that the application be brought forward to Council for their consideration, in order to forward the application to the Agricultural Land Commission (ALC) (Appendix III).

SITE CHARACTERISTICS

Existing Land Use: Single family dwelling and blueberry farm.

Adjacent Area:

Direction	Existing Use	OCP/NCP Designation	Existing Zone
North (Across Colebrook Road):	BC Harbours Railway within ALR.	Agricultural	A-1
East:	Vacant farm land within ALR.	Agricultural	A-1
South:	Single family dwelling and blueberry farm within ALR.	Agricultural	A-1
West (Across 157 Street):	Single family dwelling and grape farm within ALR.	Agricultural	A-1

DEVELOPMENT CONSIDERATIONSBackground

- The subject property is approximately 4.6 hectares (11.4 acres) in size and is located at 15832 - Colebrook Road.
- The property is designated "Agricultural" in the Official Community Plan (OCP), zoned "General Agricultural Zone (A-1)" and located within the Agricultural Land Reserve (ALR).

- The subject site is classified as farm under the BC Assessment Act. Approximately 3.5 hectares (8.6 acres) of the site is actively farmed for blueberries; an additional 0.5 hectares (1.2 acres) of the lot is planted with blueberries but is not productive due to poor soil conditions.
- The property contains a single family residence sited on a non-conforming residential farm home plate located in the south-east corner of the site. The residential farm home plate has an area of approximately 0.41 hectares (1 acre). The furthest boundary of the home plate is set back approximately 136 metres (446 ft.) from Colebrook Road. The dwelling is set back approximately 110 metres (361 ft.) from Colebrook Road.
- Approximately 0.44 hectares (1.1 acres) of land in the north-east corner of the site has been filled and is used for farm related equipment storage, one tractor barn, and one farm office. This area represents approximately 9.7% of the total property. The current amount of fill in this area exceeds the ALC's permitted 2% of a parcel that may be filled for farm related activities. The fill used for farm related activities is calculated separately from fill used for residential purposes on an agricultural property.
- There are currently three full-time and six part-time farm workers living in the existing dwelling.
- In 2009, the City received a Non-Farm Use Development Application (No. 7909-0051-00) to allow for truck parking on the subject site. The application was referred to the Agricultural Land Commission (ALC) on July 15, 2009 and subsequently denied by the ALC on August 30, 2013.

A-1 Zone

- On October 3, 2016, Council approved the recommendations in Corporate Report No. R220, which included removing the provision of a second single family dwelling as a permitted use in Surrey's agricultural zones. On November 7, 2016, Council adopted the authorizing By-law No. 18874.
- The intention of the Zoning By-law amendment was to better align the permitted uses of the City's agricultural zones with the intended provision for second dwellings in the ALR as outlined in Section 18 of the *Agricultural Land Commission Act* (ALC Act) and the Agricultural Land Commission's (ALC) Policy #9.

Additional Residences in the ALR

- Under Section 18 of the *Agricultural Land Commission Act* (ALC Act) a local government may not:
 - (i) permit non-farm use of agricultural land or permit a building to be erected on the land except for farm use, or
 - (ii) approve more than one residence on a parcel of land unless the additional residences are necessary for farm use.

- ALC Policy #9 "*Additional Residences for Farm Use*" provides further interpretation of Section 18 by outlining that a local government must be provided with sufficient evidence that there is a legitimate need for an additional residence for farm help accommodation. Local government by-laws should not necessarily be the basis for making a determination about the necessity for farm help accommodation. By-laws that automatically permit a second residence on a specified size of parcel in the ALR are not an appropriate determination under the ALCA. To help determine the need and evaluate the size and type of farm operation, the local government may wish to obtain advice and direction from staff of the Ministry of Agriculture and the Agricultural Land Commission. If there is any doubt with respect to need, an application under Section 20(3) of the ALC Act for permission for a non-farm use is required.
- The City does not employ anyone with the expertise to adequately evaluate if a given farm operation requires an additional residence for farm help. Therefore, the City requests applicants seeking a second dwelling on their farm property submit a Non-Farm Use Application to the ALC under Section 20(3) of the ALC Act to help determine legitimate need.
- Should the ALC determine that there is merit in considering a second dwelling for farm help, the farm owner would be required to proceed with an application to rezone their property from "General Agricultural Zone (A-1)" to "Comprehensive Development Zone (CD)" (based on A-1) to permit the second dwelling.

Current Proposal

- The applicant is proposing to construct a second dwelling on the property in order to accommodate family members, who are currently living in the existing dwelling and have other occupations, to continue residing at the farm and contribute to the farm operation on a part-time basis.
- The applicant is proposing to construct the second dwelling in the south-west corner of the site (Appendix II). The dwelling will create a second residential farm home plate of approximately 0.1 hectares (0.25 acres). The proposal increases the total farm home footprint on the lot to approximately 0.51 hectares (1.2 acres) over two non-contiguous areas.
- The property owners are proposing to use non-native soil from the north-west portion of the site, which is impeding blueberry production, as fill for the new residential home plate in the south-west corner of the site. In doing so, 0.4 hectares (1 acre) of native soil will be uncovered and replanted with blueberries.
- To date, the property owner has not submitted a rezoning application to accompany the subject non-farm use application. However, Staff has advised the applicant that a rezoning application from "General Agriculture Zone (A-1)" to "Comprehensive Development Zone (CD)" (based on A-1) would be required in order to permit a second dwelling for farm help if the ALC provides a favorable decision for their proposal.
- On February 2, 2017, the City's Agriculture and Food Security Advisory Committee reviewed the proposal for the second dwelling and recommended that the non-farm use application be brought forward to Council for their consideration, in order to forward the application the ALC.

PROJECT EVALUATION

- While the applicant's proposal will result in the remediation of 0.4 hectares (1 acre) of currently unproductive farmland, the proposed location of the 0.1 hectares (0.25 acres) second residential home plate ultimately adds to the total amount of farmable land that has been converted to permanently non-production purposes. Approximately 0.85 hectares (2.1 acres), representing 18.5% of the total 4.6 hectare (11.4 acres) parcel, have been filled for residential and farm related uses that are ancillary to the growing of blueberries. The proposed second residential farm home plate will increase the total area of the site devoted to these ancillary uses to approximately 20.7%.
- The evaluation of whether a second dwelling is required for farm help on a given lot should include factors such as the size and type of farm operation. Among these factors, the availability of residential accommodations within a reasonable distance from the farm operation should be considered. The second dwelling is proposed to house extended family members who are currently residing in the existing dwelling and are part-time workers in the farm operation.
- The City does not employ anyone with the expertise to evaluate if the subject farm operation necessitates a second dwelling to accommodate farm helpers. Therefore, Staff recommends that Council refer this application to the Agricultural Land Commission without comment.

INFORMATION ATTACHED TO THIS REPORT

The following information is attached to this Report:

- | | |
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| Appendix I. | Lot Owners, Action Summary and Project Data Sheets |
| Appendix II. | Site Plan and Aerial |
| Appendix III. | February 2, 2017 Agriculture and Food Security Advisory Committee Minutes |

original signed by Ron Hintsche

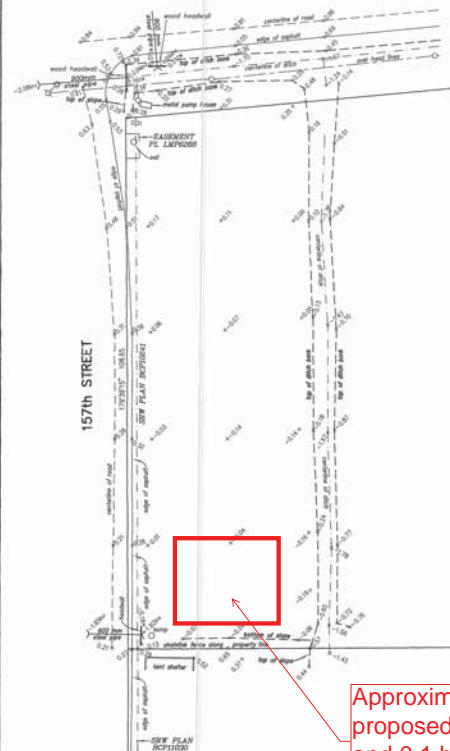
Jean Lamontagne
General Manager
Planning and Development

ARR/da

**TOPOGRAPHIC PLAN OF PART OF LOT A (SEE BR178379)
SECTION 2 TOWNSHIP 2 NWD PLAN 1151**

All Distances are in Metres.
The intended plot size of this plan is
864mm in width by 560mm in height
(0 size) when plotted at a scale of 1:500
CIVIC ADDRESS
15832 COLEBROOK ROAD
SURREY, B.C.
P.L.D. 010-272-964

SURVEY LEGEND	
○	UTILITY POLE
○-□	UTILITY POLE WITH LIGHT
—	TOP OF WALL
inv	INVERT



Approximate location of
proposed second dwelling
and 0.1 ha farm home plate

COLEBROOK ROAD

A
(BR178379)
PLAN 1151

42
PLAN 1151

Appendix II



0.44 ha filled for farm
related activities



Existing 0.4 ha
farm home plate

33
PLAN 1151

40
PLAN 1151

43
PLAN 1151

- NOTES**
- 1) Elevations are in metres and are geoidal. (CGVD28)
 - 2) Elevations are derived from RTK GPS observations.
 - 3) This Plan was prepared for architectural design and site servicing purposes, and is for the exclusive use of our client. The signatory accepts no responsibility or liability for any damage that may be suffered by a third party as a result of reproduction, transmission or alteration to this document without consent of the signatory.
 - 4) Prior to any construction, underground services are to be confirmed by Municipal Engineering Dept.
 - 5) If there is any conflict in information between the hard copy of this Plan and the digital data provided, the hard copy shall be taken to be correct. Any information taken from digital data shall be confirmed by information shown on the hard copy of this Plan.
 - 6) Lot dimensions are derived from Plan EPP27226 and may change upon legal survey.

Onderwater Land Surveying Ltd.
B.C. Land Surveyors
#104 - 5630 178 'A' Street
Clernville, B.C.
FILE: 201814_193 7916-0604-00

Eastern Geographic data added
on the 12th day of October, 2016.
Certified correct, completed on
the 29th day of July, 2016.

©
jat
B.C.L.S.



Colebrook Rd

15832

157 St

DRAFT

**Agriculture and Food
Security Advisory
Committee Minutes**

Present:

Councillor Starchuk, Chair
M. Bose, Vice-Chair
B. Sandhu
D. Arnold
G. Hahn
H. Dhillon
J. Sandhar
J. Zelazny
M. Hilmer
P. Harrison
S. VanKeulen

Agency Representative:

D. Geesing

Regrets:

Staff Present:

A. Rossi, Planning & Development
C. Lumsden, Planning & Development
C. Stewart, Planning & Development
M. Kischnick, Planning & Development
R. Dube, Engineering
L. Anderson, Legislative Services

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D. NEW BUSINESS

- 1. Non-Farm Use Application – Second Dwelling in ALR**
Adam Rossi, Planning Technician
File: 7916-0604-00

The following comments were made:

- The subject property is approximately 4.6 hectares (11.4 acres) in size and located within the Agricultural Land Reserve (ALR). It is designated Agricultural in the Official Community Plan (OCP), zoned General Agriculture Zone (A-1), and is classified as farmland under the *Assessment Act*, currently producing blueberries.
- The property contains a single family residence sited on a non-conforming residential farm home plate that is located in the south-east corner of the site. In addition, there is one tractor barn and one farm office located on approximately 0.44 hectares (1.1 acre) of fill in the north-east corner of the site. The applicants have indicated that this area is used for farm equipment storage; however the current amount of fill exceeds the ALC's permitted 2% of the parcel that may be filled for farm related activities.
- The applicant is requesting a second dwelling in the south-west corner of the subject site. The dwelling will create a second residential farm home plate of approximately 0.1 hectares. The proposal increases the total farm home footprint on the lot to approximately 0.51 hectares (1.2 acres) over two non-contiguous areas.

- The subject application is proposed to be referred to the ALC to determine if there is merit in approving a second dwelling on the site. If the ALC determines there is merit, a rezoning application from A-1 to Comprehensive Development Zone (CD) (based on A-1) to permit a second dwelling for farm help would be required.
- A Development Permit for flood prone hazard lands would also be required as part of this application.
- The applicant advised there are currently three full-time and six part-time farm workers living in the existing dwelling. The second dwelling is required to accommodate other existing family members, who have other occupations, to reside at the farm and continue to contribute to and grow the farming operation in the evening and weekends. Furthermore, farming leases with the properties to the south and west have been established, for which the second dwelling will enhance the ability to farm the leased areas.

Staff reported that on November 7, 2016, Council adopted By-law No. 18874 which removed the provision for a second single family dwelling as a permitted use in Surrey's agricultural zones. The intention of the Zoning By-law amendment was to better align the permitted uses of the City's agricultural zones with the intended provision for second dwellings in the ALR as outlined in Section 18 of the *Agricultural Land Commission Act (ALC Act)*. Under Section 18 of the *ALC Act* a local government may not:

- (i) permit non-farm use of agricultural land or permit a building to be erected on the land except for farm use, or
- (ii) approve more than one residence on a parcel of land unless the additional residences are necessary for farm use.

ALC Policy #9 "Additional Residences for Farm Use" provides further interpretation of Section 18 by outlining that a local government must be provided with evidence that there is a legitimate need for an additional residence for farm help accommodation. Local government by-laws should not necessarily be the basis for making a determination about the necessity for farm help accommodation. By-laws that automatically permit a second residence on a specified size of parcel in the ALR is not an appropriate determination under the *ALC Act*. To help determine the need and evaluate the size and type of farm operation, the local government may wish to obtain advice and direction from staff of the Ministry of Agriculture and the Agricultural Land Commission. If there is any doubt with respect to need, an application under Section 20(3) of the *ALC Act* for permission for a non-farm use is required.

Discussion ensued with respect to the non-farm use application and the ALC's regulation process for secondary dwellings, noting that the ALC process was the same prior to the City's November By-law amendment as it is currently. Previously By-law No. 18874 did not draw attention to ALC requirements for second dwellings, which may have caused confusion and created miscommunication. Additional comments were as follows:

- The current zoning allows for one dwelling. Rezoning is required to allow non-farm use or residences for families that don't comply with the *ALC Act*, which the applicant has submitted.
- Farm labour requirements vary depending on the type of farm operation. It benefits some farms to have someone on site to address any emergencies as necessary. It was stated that there are family members in the first home that farm the lands. In this particular case, the request for the second dwelling is for family members who have other occupations who will be there.
- The question is whether there is a legitimate need for the second permanent dwelling to manage the existing farm operation; is there an immediate need for the farm operations that requires an additional on-site residence, or is the farm in an area where appropriate living accommodations are not available, or where a temporary mobile structure for farm help for family members is not sufficient.
- The *ALC* allows for certain housing for immediate family members for nine months a year. As there are already family members in the first home, they can be available throughout the winter months when the majority of farm workers are not there. The *ALC Act* is very clear what the regulations are.
- The Ministry of Agriculture Representative noted that Abbotsford requires a minimum of 16 acres of blueberry production before a second dwelling would be considered.
- To be clear, the November 7th By-law amendment permits one dwelling, however the *ALC* legislation does permit a mobile home for family member use that applies to the agricultural lands as well. This means a single family primary dwelling and a mobile home, or some non-permanent structure that can be moved off the site. In this case the second dwelling is being requested for family use and is not a temporary structure, it is a permanent house. In addition, the farm home plate would be larger than what is permitted.
- The type of crop may change over time, but the house will be permanent. The *ALC* will review the AFSAC comments when considering the *ALC* application. If there is justification for the farm labour, the need for a permanent structure on 11 acres has to be established.
- The amount of fill on the site should be addressed. The area filled is greater than the 2000 square meters (0.5 acre) permitted for non-farm (residential) uses and 2% of farm parcel for farm uses permitted by the City without application to the *ALC*. It is assumed the applicant knew about the excess fill when the land was purchased as they knew that part of the proposal was to remediate the fill at the northwest corner of the property.
- The application is to permit a non-farm use (Additional Single Family Dwelling) and to rezone the property to allow the additional permanent dwelling. There is already a house on the property, there doesn't appear to

be any justification to have a second permanent dwelling. Furthermore, if the second structure was permitted, it should be placed on one farm plate rather than a separate farm residential footprint.

- In this case the applicant is applying to permit a non-farm use under the *ALC Act*, for additional family members in an additional permanent dwelling. The application will be forwarded to the ALC and if the ALC Board feels that it is necessary for farm use, and if it is justified, the City would then, and only then, consider processing a rezoning for the property.
- Staff clarified the existing principal residence is a permitted non-farm use under the *ALC Act* and under current zoning regulations. A second permanent dwelling for family members is not a permitted farm use under the ALR regulations, and would therefore require a non-farm use application and a subsequent rezoning to permit the use.
- Current ALR regulations regarding residential uses allow for:
 - One principal single family dwelling with a secondary suite, if permitted by the City zoning standards; and
 - One manufactured home, for use by a member of the owner's immediate family.
- An additional permanent or temporary residential dwelling for farm help is only to be considered if necessary for full-time, bona fide farm operations, if permitted by local government bylaws.

It was

Moved by M. Hilmer

Seconded by D. Arnold

That the Agriculture and Food Security

Advisory Committee recommends that the General Manager of Planning and Development bring forward Non-Farm Use Application No. 7916-0604-00 to Council for their consideration, in order to forward the Application to the Agricultural Land Commission (ALC) with the understanding that a non-permanent temporary or modular second dwelling only be considered in the ALR if it is in keeping with all Provincial, ALR Use, Subdivision and Procedure Regulations, ALC Policy, and Ministry of Agriculture standards for residential uses in the ALR.

Carried

with M. Bose and H. Dhillon opposed.

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