

Attachment 4 Planning Implications

Land Use Implications

Section 3.2(17) of Regional District of Nanaimo Land Use and Subdivision Bylaw 500, 1987 (Bylaw 500) allows the RDN to issue a Temporary Use Permit (TUP) to temporarily allow a use not permitted by zoning. Bylaw 500 includes criteria for consideration of TUP applications, including impact to surrounding areas or natural environment and suitability of the location for the proposed use.

The following provides an overview of how the applicant is proposing to satisfy the applicable TUP criteria from the zoning bylaw as well as other relevant planning implications.

Proposed Development

With respect to housing type, the applicant is proposing to construct the temporary housing units on site. As a result, the proposed units are not as moveable as pre-manufactured units, but could be removed if required. The applicant also indicates that the temporary housing will only be used during the growing season and will remain vacant for the balance of the year.

The proposed total footprint of the temporary housing and related infrastructure is approximately 850 m². Given the subject property is 33.6 hectares in area, the proposal is limited to approximately 0.25 percent of the parcel and is proposed to be located adjacent to the only existing permanent farm building on the subject property.

Impact on surrounding areas (noise, light, hours of operation, dust, odour, vibration, aesthetic)

The location of the proposed temporary farm worker housing is located on the north east portion of the subject property adjacent to a constructed road right of way. The proposed location is in close proximity to existing farm buildings and greenhouses; and is far from residential, commercial and other incompatible uses; and the applicant indicates it is more than 30 metres away from all watercourses. As the subject property contains an existing greenhouse-based raspberry growing operation, the addition of the proposed temporary farm worker housing is not anticipated to result in any additional impacts from light, noise, or dust due to the distance from residential areas.

Impact to local roads

Minimal additional traffic is anticipated as a result of the proposed temporary farm worker housing as it is expected that the workers who reside in the temporary housing will not have their own vehicles. The farm operator is responsible to arrange transportation for the workers to access local services. This is most likely to be done by small vans on a regular or as needed basis. The applicant advises that the workers' days off are rotated so that only 7 workers have the same day off each week. Therefore, it is not anticipated that the proposed temporary farm worker housing would result in any significant impacts to the local roadways.

Impact to the natural environment

The location of the proposed temporary farm worker housing does not contain any environmentally sensitive features.

The subject property contains a number of watercourses, which are tributaries of Kinkadee Creek that are subject to the Freshwater and Fish Habitat Development Permit Area (DPA). The applicant was originally proposing land alteration within the 30 metre Riparian Assessment Area (RAA) and submitted a Riparian Assessment Prepared by Red Cedar Environmental Consulting Inc., and dated February 13th, 2023 (Assessment). The Assessment establishes a Streamside Protection and Enhancement Area (SPEA) width on all the watercourses on the property. The watercourse located closest to the proposed development received a SPEA width of 10 metres.

It is noted that the previous version of the proposed site plan included a septic field, within the RAA. Upon reviewing the Assessment, the Ministry of Forests advised that the proposed septic field location did not meet the Riparian Areas Protection Regulation standards. In response, the applicant amended the plan by relocating the proposed septic field location to be outside of the RAA. Therefore, a development permit is not required. In addition, as part of the building permit review process, the applicant will be required to confirm that all proposed construction and development activities are not located within the DPA.

To ensure there is no encroachment into the Freshwater and Fish Habitat Development Permit Area (DPA), a condition has been included in the draft Temporary Use Permit for flagging to be installed along the RAA boundary prior to any land alteration and the issuance of a building permit for the temporary farm worker housing.

Servicing Implications

The applicant is proposing to service the temporary farm worker housing with an existing groundwater well. In support of this application, the applicant submitted an assessment of the existing groundwater supply for the proposed use prepared by Western Agricultural Consultants, dated February 13, 2023 (Assessment). The Assessment indicates that the well was constructed for the previous property owner by Red Williams Drilling Ltd. in April 2017 for irrigation purposes and was pump tested by Elanco Enterprises Ltd. in 2019.

The property owner holds a conditional water license (#502994) authorizing diversion from the well of 25,000 m³ of water per year between March 15 to October 31 at a maximum rate of 2.5 litres per second for irrigation and industrial (camps and public facilities) purposes. The Assessment indicates that the current irrigation system uses approximately 23,000 m³ per year and that the additional water demand as a result of the proposed temporary farm worker housing can be accommodated within the authorized diversion volume. Further, the Assessment concludes that pumping the well at the rates licensed and required to service the proposed development should not adversely impact the use of nearby pumping wells for domestic purposes.

To keep track of groundwater levels and usage volumes, the Assessment provides the following two recommendations, which are included in the proposed conditions of approval contained in the draft TUP (see Attachment 6 – Draft Temporary Use Permit).

1. Install a recording water level transducer and flow metre on well WTN113212 to keep track of groundwater levels and usage volumes.
2. If access permission can be obtained, carry out water level monitoring in a nearby well (e.g. WTN 52404 and/or WTN 117771/WTN 117251) during the first year of operational pumping of WTN113212.

Note that while the well is currently licensed, source approval from Island Health is required and is included as a recommended condition of approval in the draft TUP.

With respect to sewage disposal, the applicant has submitted a design prepared by a professional engineer as well as proof that a filing with Island Health has been accepted. The approved treatment option is a Type 1 system with a pressurized sand mound dispersal system designed for up to 77 farm workers.

Intergovernmental Implications

The Agricultural Land Commission (ALC) has approved a non-adhering residential use application in support of the proposed temporary farm worker housing.

The ALC's decision was guided by Agricultural Land Reserve Policy L-26 – Non-adhering Residential Use Applications (Policy), which sets out guidelines for the ALC's consideration of Non-adhering Residential Use Applications. The Policy supports temporary seasonal agricultural worker housing through a Non-adhering Residential Use Application and states that employers approved for farm workers under the Canadian Seasonal Agricultural Worker Program (SAWP) have already been assessed for farm business legitimacy and employment needs as part of the SAWP application process. As such, the ALC determination was based on already determined legitimacy and need. The Policy suggests that temporary housing for farm workers be located in an existing building or structure and be on a temporary foundation with no basement. The ALC has delegated decision making authority for this type of temporary housing to the Chief Executive Officer.

With respect to temporary farm workers, there are two separate but similar programs that cover the recruitment and regulate this type of employment. These include the SAWP and the AgStream programs. The main differences between these programs relate to recruitment, transportation, and mobility of employees between farms. The applicant is proposing to hire foreign workers under the AgStream program as it best suits farming operation needs.

There are four main government agencies and one government industry association that oversee SAWP and AgStream Programs. Federal government agencies include Economic and Social Development Canada, Service Canada, and the Canadian Border Service. Provincial agencies include the Ministry of Labour. The industry association is the Western Agriculture Labour Initiative. Employers of temporary farm workers for agriculture must meet the above agencies' requirements to hire temporary foreign workers.

According to the applicant, the approval process is summarized as follows:

- Employer obtains a Certificate of Registration from the Ministry of Labour
- Temporary Farm Worker Housing is constructed and inspected

- Employer obtains a Labour Market Impact Assessment from Employment and Social Development Canada
- Service Canada interviews the employer and determines the employer's needs and timelines
- Employees are hired through the AgStream Program

The applicant has received a Certificate of Registration and is working towards the other required approvals.

Suitability of the location and the inability to conduct the use in another area

The subject property contains an existing raspberry growing operation, which the applicant indicates requires farm workers to operate and expand. Having farm workers temporarily live on the farm is the applicant's preference as doing so improves farm operations and reduces transportation needs. Despite the above, the proposed temporary use is not within walking distance of local services and is not serviced by public transit.

However, it is a common agricultural practice to provide temporary farm worker housing on the same parcel or in close proximity to the farm operation that the workers will be employed on.

Satisfactory decommissioning and reclamation plan

In its decision on the non-adhering residential use application, the ALC included a number of conditions of relevance to decommissioning and reclamation including:

- Registration of a Section 219 Covenant in favour of the ALC requiring compliance with the ALCs conditions of approval and removal the units and restoration the land if the housing is vacant for two consecutive years.
- Submission of security in the form of an irrevocable letter of credit in the amount of \$20,000 to be held by the ALC sufficient to remove the proposed accommodation if necessary.

While the requested TUP has a three-year expiration, the ALC approval does not expire. As such, the ALC conditions only allow the use of the security for circumstances deemed necessary to enforce the conditions imposed by the ALC. Further, the above conditions do not provide the RDN with security it can rely upon to ensure compliance with its bylaws.

Staff made a request to the ALC to name the RDN in the above covenant and security as a means to coordinate the conditions of approval; however, based on discussions with ALC staff, there was no reasonable opportunity to coordinate on the provision of security. Therefore, it is recommended that the applicant be required to submit security in the form of an irrevocable letter of credit in the amount of \$20,000 to be held by the RDN prior to the issuance of this permit.

Note, the amount of security being recommended is equal to the amount deemed sufficient by the ALC. As the proposed temporary housing units are being constructed onsite, the cost of removal may be more than for premanufactured units as previously envisioned. Despite the potential higher costs of removal and remediation, the combined security to be held by the ALC and recommended to be held by the RDN provide adequately to ensure that the proposed use is removed and the land is restored when the TUP expires.

It is also noted that the applicant has the opportunity to apply for one TUP renewal to allow up to an additional three years of operation of the temporary farm worker housing. However, prior to the expiration of the TUP, the applicant would either be required to successfully apply to rezone the subject property or remove the units and restore the land to the state it was in prior to construction of the units.

Intergovernmental Implications

The application was referred to the Ministry of Transportation and Infrastructure, RDN Emergency Services, and RDN Building Inspection Services. The following comments were received in response to the referrals:

Ministry of Transportation and Infrastructure (MOTI)

- MOTI has no objections to the proposed TUP;
- An access permit is required,
- No direct access to Corcan Road will be permitted; and,
- Property drainage must not flow directly onto Corcan or Flail Roads.

RDN Emergency Services

1. Owner(s) and occupants should be aware the property is NOT within any Fire Protection Area and there would be no fire department response on the property.
2. Driveway signage should be installed that is reflective, clearly visible from both ways of travel so it can be easily seen by emergency responders. Lettering on and numbers on signs or posts, should be a minimum of 6.4 centimetres in height (reflective), or 15.2 centimetres in height (non-reflective).
3. Road and driveway should be built to support apparatus height, weight and length and be a minimum of a 3.6-metre-wide drivable surface with 6.1 metre unobstructed sight clearance, 4.1 metre height clearance and parking and turn around area near structures.
4. If the driveway is long, ensure that there are 6.1 metre wide pullouts located along driveway to allow for two-way vehicular traffic.
5. Ensure the driveway is kept clear of snow, brush and trees branches 24/7/365. (Chapter 18 of NFPA 1, Fire Code). Access roads must provide fire apparatus to drive within 45.7 metres of an exterior door for one-or two-family dwellings.
6. Due to the nature of the location and the forested area on and near the proposed subdivision we strongly recommend the owner(s) follow the RDN's Building Inspection Services Information Bulletin "Creating a FireSmart™ Home and Property" this includes following the FireSmart principles. Especially when renovating, upgrading or building structures or landscaping features on the land.
7. It is noted that this is a one way in and one way out road and that adding more people to the area may represent an additional challenge in the event of an evacuation due to an emergency such as wildfire.

RDN Building Inspection Services

Building Inspection Services has been working closely with the applicant to address BC Building Code compliance and related issues. Confirmation that the buildings can be accepted as designed and will be able to achieve building permits has been received.