

To: Electoral Area Services Committee
From: Tracey Heron, Planning Technician

Date: 2020-12-08
File No: 3015-20 2020-06

**Subject: Agricultural Land Commission Application – Non-Adhering Residential Use at 53788
McGregor Road, Electoral Area D**

RECOMMENDATION

THAT the ALC application for a non-adhering residential use (building a new principal residence while occupying an existing residence) within the Agricultural Land Reserve for the property located at 53788 McGregor Road, Electoral Area D, be forwarded to the Agricultural Land Commission for consideration; **AND THAT** the Agricultural Land Commission consider the FVRD staff report dated December 8, 2020 under file number 3015-20 2020-06.

STRATEGIC AREA(S) OF FOCUS

Foster a Strong & Diverse Economy
Provide Responsive & Effective Public Services

BACKGROUND

The Fraser Valley Regional District has received an application for a non-adhering residential use in the Agricultural Land Reserve for the property located at 53788 McGregor Road, Electoral Area D. The owners wish to reside in their existing house during construction of a new residence on the property, after which the old house will be demolished.

As this property is located within the Agricultural Land Reserve, it is subject to the provincial *Agricultural Land Commission Act (ALC Act)* and the Agricultural Land Reserve Regulations. The *ALC Act* and Regulations require an application for a non-adhering residential use to determine if a second residence can be permitted. Note that upon completion of the new home, the existing house will be removed so that only one permanent residence will remain on the property.

Electoral Area	D		
Address	53788 McGregor Road		
PID	005-742-498		
Folio	733.01151.232		
Lot Size	1.76 acres		
Owner	Wesley & Rianna Klaassen	Agent	n/a
Current Zoning	Country Residential (CR) Rural (R)	Proposed Zoning	No change
Current OCP	Agricultural- Small Holding (AG-S)	Proposed OCP	No change
Current Use	Single Family Dwelling	Proposed Use	No change
Development Permit Areas	6-D Riparian Areas		
Agricultural Land Reserve	Yes		

ADJACENT ZONING & LAND USES

North	^	Rural (R) ; Single Family Dwelling
East	>	Rural (R); Single Family Dwelling
West	<	Rural (R); Farm
South	v	Rural (R); Single Family Dwelling; Cheam Lake Wetlands Regional Park

NEIGHBOURHOOD MAP



PROPERTY MAP



DISCUSSION

ALC Non-Adhering Residential Use Application

The Agricultural Land Commission (ALC) is the provincial agency responsible for administering the Agricultural Land Reserve. In February 2019, the Province amended the *Agricultural Land Commission Act* and the ALR Regulations, changing how additional residences in the ALR are approved.

Under the current rules, local governments must not permit construction of a secondary residence in the ALR without ALC approval. This approval is considered through a Non-adhering Residential Use application. The decision for approving or denying non-adhering residential use is the responsibility of the ALC.

Parcels in the ALR Less Than 2 Acres

Land parcels that are less than 2 acres in size have potential exceptions from the *Agricultural Land Commission Act (ALCA)*. If a registered plan and a certificate of title as of December 21, 1972 show a property to be less than 2 acres, it is exempt from the Agricultural Land Reserve. As the current parcel boundaries were created in 1980, this parcel is not exempt from the ALR.

Current Use of Land

The property is 1.76 acres (0.7 hectares) in size and is located within the Agricultural Land Reserve (ALR). The owners grow a significant amount of produce on their property for personal consumption and preserving, in both a garden and a 20 x 40-foot greenhouse. They indicate they have 40 blueberry bushes, a variety of over 20 fruit trees, a couple rows of raspberry plants, and grape vines. They also have a 5,000 square foot chicken run for free range chickens.

Purpose and Rational of Application

The owners of the property have made an application for a non-adhering residential use at 53788 McGregor Road. They wish to construct a new home closer to the front of their property while residing in their current home. When their new home is complete, they intend to demolish their existing house and use this additional land area for pasture.

If the owners are permitted to reside in their current dwelling during construction of their new home, they will be able to capitalize on the next growing season and maintain their orchard, garden, berry plants, and greenhouse. This will provide them with significant produce for their personal consumption. Residing off-site during construction of their new home will not allow them to plant and maintain their gardens, having them lose out on the entire growing season.

The location of the new home will be to the north, or in front, of the existing dwelling. This portion of the property is currently used as lawn area. The new home would be situated on the presently used lawn area, while the pasture area would be extended when the existing house is demolished.

Proposed New Residence

The existing house on the property is approximately 102.2 square metres (1100 square feet) in size, and the proposed new home is designed to be 313 square metres (3369.1 square feet) in size. The Agricultural Land Commission has a maximum principal residence size of 500 square metres (5381.96 square feet) that they permit on ALR land. The proposed house is consistent with the ALC size limit.

The property owners have designed the proposed new house to be located on the existing lawn area to reduce the disturbance of agricultural uses on the property. They will be using the existing infrastructure on the property such as the current driveway, parking area, and the same landscaped area. No additional fill will be required to be brought in for the construction of the house.

Zoning

The boundaries of the property are within two zones as per '*Zoning Bylaw for Electoral Area "D", 1976 of the Regional District of Fraser-Cheam*'. These two zones are Country Residential (CR) and Rural (R), and the zoning bylaw allows 'Farm' as a permitted use in both of these zones.



The majority of the property lies within the Country Residential (CR) zone, with a portion of the western boundary in the Rural (R) zone. The existing and proposed new homes both lie within the CR zone. The current site plan indicates that the proposed new home meets all of the zoning setback and height requirements as laid out in the bylaw for Country Residential.

Bylaw No. 75 Zoning Requirements for Country Residential (CR)		
	Required	Proposed
Front Lot Line	7.62 metres (25 feet)	>50 metres (>164 feet)
Side Lot Line	3.048 metres (10 feet)	>12 metres (>39 feet)
Rear Lot Line	7.62 metres (25 feet)	>55metres (>180 feet)
Height	10 metres (32.8 feet)	7.71 metres (25.3 feet)

Two Homes One Lot Covenant

Fraser Valley Regional District zoning bylaws limit the number of residential dwellings on a property. The property is zoned Country Residential and Rural, with both zones permitting an additional residence on the property, if the property meets the conditions as laid out in *Zoning Bylaw for Electoral Area "D", 1976 of the Regional District of Fraser-Cheam* for accessory employee residence.

Accessory Employee Residential Use

- i) The accommodation is to be the residence of a person directly involved in the operation of a farm unit; and
- ii) The lot is classed as "Farm" by the B.C. Assessment Authority

The property is not classed as "Farm" by the B.C. Assessment Authority, and as such, a second dwelling is not a permitted use on the property.

During construction of a new home on a property, the owners may reside in their current dwelling if the owners register a 'Two Homes on One Lot During Construction' covenant on the title of their property. This would ensure that prior to receiving Final Occupancy for the building permit for the new residential home, the existing house would be demolished. The Agricultural Land Commission has a similar policy in place for owners wishing to reside in their existing dwelling during construction of a new home.

If the ALC approves the application, the owners may be required to register a restrictive covenant on their property title, sign an affidavit committing to removal of the original residence, and provide an irrevocable letter of credit (ILOC) sufficient to ensure removal of the original residence within 60 days of completion of the new principal residence.

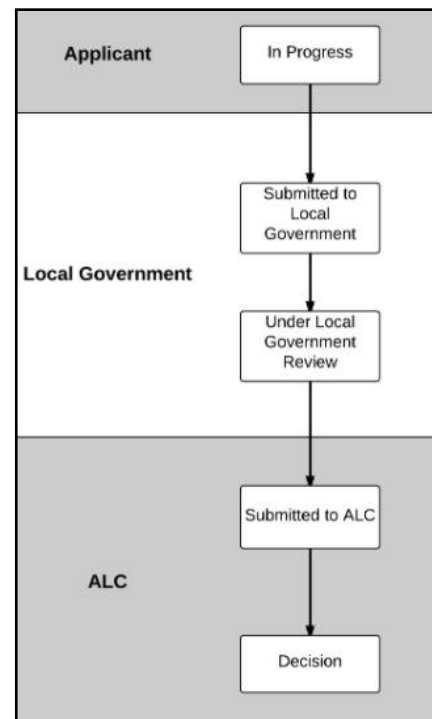
ALC Application Process

Non-adhering residential use applications are submitted by the applicant to the ALC Application Portal, and the application is sent directly to the FVRD.

The FVRD Board may either:

1. Forward the application to the ALC with any comments it deems appropriate through an authorizing resolution.
2. Not forward the application to the ALC, in which case the application will not proceed.

If the application proceeds to the ALC and it is approved, the FVRD may then issue a building permit for the construction of the additional new residential dwelling on the property. The Two Homes on One Lot During Construction covenant will be addressed through the building permit process.



COST

The application fee for a non-adhering residential use application is \$900, split evenly between the local government and the Agricultural Land Commission. The applicant has paid the local government portion to the FVRD in the amount of \$450, and if the application is forwarded to the Agricultural Land Commission for their review, the remaining \$450 will be collected by the ALC.

CONCLUSION

The Fraser Valley Regional District has received an application for a non-adhering residential use in the Agricultural Land Reserve for the property located at 53788 McGregor Road, Electoral Area D. The owners wish to reside in their existing house during construction of a new residence on the property, after which the old house will be demolished.

The property, although less than two acres in size, is not exempt from the ALR. As such, the owners have applied for a non-adhering residential use through the Agricultural Land Commission. The proposed house is consistent with the Country Residential and Rural zones in 'Zoning Bylaw for Electoral Area "D", 1976 of the Regional District of Fraser-Cheam' and it meets all setbacks and height requirements. Through a covenant registered on the property title, the FVRD can allow for a second residence on the property during construction of the new home, provided the existing dwelling is demolished prior to receiving Final Occupancy on the new home.

With the agreement by the property owners to register a Two Homes on One Lot During Construction covenant on the property title in favour of the FVRD, staff recommend that the FVRD Board resolve to forward the application to the ALC.

Options

Option 1 Forward to the ALC (Staff recommendation)

THAT the ALC application for a non-adhering residential use (building a new principal residence while occupying an existing residence) within the Agricultural Land Reserve for the property located at 53788 McGregor Road, Electoral Area D, be forwarded to the Agricultural Land Commission for consideration; **AND THAT** the Agricultural Land Commission consider the FVRD staff report dated December 8, 2020 under file number 3015-20 2020-06.

Option 2 Refuse

THAT the Fraser Valley Regional District Board refuse the application for an ALR non-adhering residential use and not forward the application to the Agricultural Land Commission.

COMMENTS BY:

Graham Daneluz, Director of Planning & Development: Reviewed and supported.

Kelly Lownsborough, Chief Financial Officer/ Director of Finance: Reviewed and supported.

Jennifer Kinneman, Chief Administrative Officer: Reviewed and supported.

SCHEDULE A Site Plan

