



COUNCIL REPORT
Development Services
For the December 10, 2019 Council Meeting

DATE: December 4, 2019

TO: Paul Gipps, CAO

FROM: Jayden Riley, Planner II

RE: Application: Non-Farm Use Application (A 19-04)
Legal: Lot A, DL 434, ODYD, Plan 32484
Address: 3992 Pritchard Drive North
Owners: Donnie Naka, Jeffrey Naka
Agent: Kevin Spiess

RECOMMENDED MOTION:

THAT Council not support the request to permit a non-farm use for a vehicle parking area in the Agricultural Land Reserve (File: A 19-04) for the property at 3992 Pritchard Drive North (Lot A, DL 434, ODYD, Plan 32484).

RATIONALE:

The recommended motion is based on the following:

- The proposal does not align with the City's Master Plans and Policies that seek to support the viability of farming and limit the development of agricultural land for non-farm use purposes.
- Supporting the non-farm use would contravene the condition imposed by the Agricultural Land Commission (ALC) for a previous application that permitted the adjacent tourist commercial property, Barona Beach Resort, to be excluded from the ALR subject to maintaining a buffer between itself and the subject agricultural property.
- Barona Beach Resort was determined to have sufficient parking at time of their Development Permit application in 2005 and 2006.
- The Ministry of Agriculture, Interior Health, and the Agricultural Advisory Committee (AAC) do not support the proposal.

LEGISLATIVE REQUIREMENTS

Agricultural Land Commission Legislation

Under S. 20 of the *ALC Act*, an owner may apply to the ALC for permission under S. 25 for a non-farm use. An application for non-farm use must not proceed to the ALC for consideration unless authorized by a resolution of the local government.

BACKGROUND:

The subject property is located at 3992 Pritchard Drive North, directly adjacent (north) to Barona Beach Resort, and is within the Agricultural Land Reserve (ALR). Historically, the property was used for RV camping as well as boat and vehicle storage. The portion of the subject property proposed for non-farm use, known as “Row F”, is intended as a buffer between the subject agricultural property and the adjacent development, Barona Beach Resort (“Lot B”). Maintaining this buffer between the properties was a condition of Lot B’s exclusion from the ALR in 2005, as well as subsequent OCP and Zoning Amendments in 2005 and 2006.

Since 2005, the property has informally been used by Barona Beach Resort for a dog park, smoking area, and garbage and recycling storage. As stated in the applicant’s non-farm use application to the ALC (*Attachment 3*), “Row F” has not been used for agricultural purposes since the land was used as an RV park / campground in the early 1970s.

Location and Surrounding Land Uses

The subject property is located at 3992 Pritchard Drive North, in the South Boucherie Neighbourhood, approximately 650 metres south of Boucherie Rd. The surrounding land uses include:

- North: Agriculture (A1) and ALR
- East: Single Detached Residential (R1)
- South: Tourist and Resort Commercial (C6)
- West: Country Residential (RU1) and Agriculture (A1) and ALR



Figure 1: Context Map

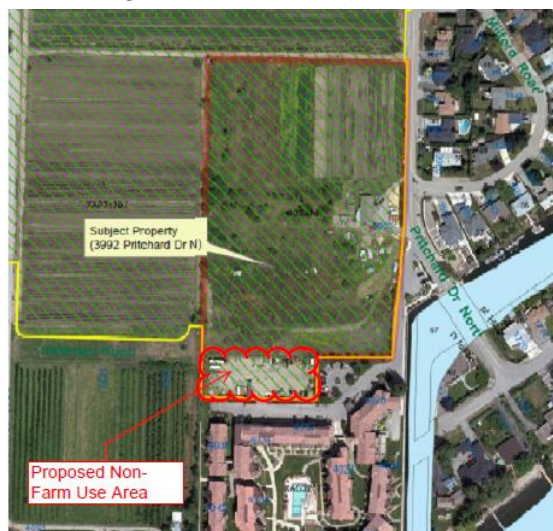


Figure 2: Proposed Non-Farm Use Area

Proposal

The applicant is proposing to use a 2,000 m² portion of the subject property, known as “Row F”, for a vehicle parking area to support overflow parking at Barona Beach Resort. The applicant is proposing to import 402 m³ of fill to construct the parking area and landscape portions of the proposed parking area with a mixture of fruit trees and natural grasses¹. The applicant has indicated they would actively monitor and clean the site on a weekly basis.

Applicant Rationale

As outlined in the application to the ALC, the applicant states the proposed parking area would reduce safety concerns caused by the overflow

¹ The placement of fill on ALR land would require the owner to submit a notice of intent to the ALC.

parking occurring on Pritchard Drive. It is also the opinion of the applicant that Barona Beach Resort was developed with insufficient parking and that support of this application would resolve existing parking and safety issues. As stated in the ALC application, the applicant indicated that Barona Beach Resort does not have accessible parking and only 6 visitor stalls for a development of 159 units.

Further to the rationale outlined in the applicant's ALC application, a letter of support from the applicant's agent and President of Barona Beach Resort Strata Council was provided (*Attachment 4*). The letter describes the safety issues caused by overflow parking that has resulted in pedestrians and cyclist coming into conflict with vehicular traffic on Pritchard Drive – see *Attachment 6* for image provided by applicant of on-street on Pritchard Drive. The letter states that additional parking would resolve the safety issue. The letter also states that, if supported, they would use only ALC-approved materials for the construction of the parking area and provide a small orchard feel for the people in the resort community and utilize a professional landscape company to maintain and clean the parking area. A conceptual site plan of the parking area was provided with the application – see Figure 3².

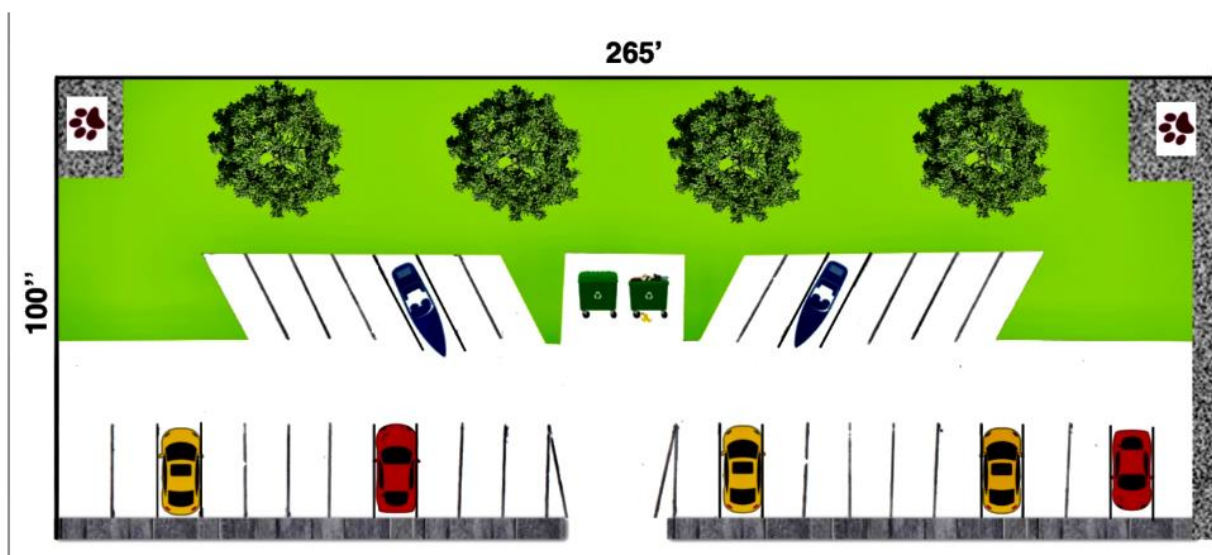


Figure 3: Proposed Parking Area Sketch

Historical File Review

Historical decisions made by the Regional District of the Central Okanagan (RDCO) and the ALC have looked to maintain the area as a buffer between the subject agricultural property and the adjacent commercial property. These decisions, in chronological order, include:

- *ALC Resolution No. 525/2004 (2004)*
 - The ALC resolved to exclude Lot B, Plan 32484, DL 434, ODYD ("Lot B")³, from the ALR, and stated they had no objection to the proposed condominium development, subject to the following conditions:
 - i. The continued lease of "Row F" for buffering purposes
 - ii. The development of a 3 m wide buffer on the boundary between the subject

² The site plan is preliminary and not to scale. The applicant does intend to maintain the area for garbage and recycling storage as well as a dog park, in addition to parking.

³ "Lot B" refers to the adjacent tourist commercial property, Barona Beach Resort – see Figure 4

property and “Lot B”, consisting of a 1-2 m high berm and a vegetative planting and fencing as required by the ALC.

- OCP Amendment Z04-14 (2004)
 - The RDCO approved an amendment to the OCP designation of “Lot B” subject to the registration of a lease agreement regarding the buffering strip, “Row F”.
- Lease Agreement between Donnie Naka (Lessor), Ermano Barone (Lessee), ALC, and RDCO (2004)
 - A lease agreement was entered into between the owner of the subject property, Donnie Naka (lessee), Ermano Barone (lessor), the ALC, and the RDCO, to use a 0.272 ha portion of the subject property “for purposes of providing a green space buffer strip between the Lessee’s lands and the remainder of the Lessor’s lands.”
 - The terms of the lease agreement was in consecutive 5-year terms. The reference plan attached to the agreement includes the area known as “Row F”, the area proposed for the subject non-farm of use of a vehicle parking area.
- Development Permit 05-08 (2005)
 - Development Permit No. 05-08 was issued for “Lot B” on a number of conditions, including the completion of the berm, planting, and fencing, as required by the ALC resolution No. 525-2005.
 - No variance to parking was required at time of development permit.
- Development Permit 06-23 (2006)
 - DP 06-23 amended the total number of units at Barona Beach Resort from 144 to 158. The report to the Chair and Members of the Regional Board stated that 188 parking spaces were proposed and approved, with 158 required.
 - No variance to parking was required for the increase in units.

POLICY AND BYLAW REVIEW:

Zoning Bylaw No. 0154

Standalone vehicle parking areas are not permitted in the Agricultural Zone (A1). If supported, the proposed non-farm use would, at minimum, require a zoning amendment to allow for a standalone vehicle parking area, as the proposed use is not subordinate to the principal use of the subject property. A stand-alone vehicle parking area is a principal use permitted only in the Urban Centre Commercial Zone (C1). Also, as the proposed non-farm use is intended to solely benefit Barona Beach Resort (“Lot B”), a covenant would need to be registered on the subject property to restrict the use and benefit of the parking area to “Lot B”.

Official Community Plan No. 0100

The OCP identifies key objectives for parcels within the Agricultural Land Use Designation (LUD), including:

- Support the preservation and enhancement of the agricultural land base through land use decisions consistent with identified agricultural policies, Agricultural Land Commission policies and decisions where applicable, and the *Agricultural Plan*.
- Discourage the proliferation of non-farm residential development or use, except as provided for by the Homesite Severance Policy within the ALR.

Agricultural Plan

Strategy Three in the Agricultural Plan, “Conservation and Environmental Sensitivity”, outlines actions that can assist farmers to be effective land stewards. The plan includes a variety of policies to achieve this strategy, including the following policies that aim to preserve agricultural land:

- Support limiting the amount of land used by residences and buildings on agricultural land to ensure a maximum amount of the land is available for agricultural production.
- Continue to consider edge planning strategies that do not interfere with farming operations, as one option for supporting existing farm operations and mitigating potential land use conflict.
- Encourage sound environmental practices that are consistent with best management practices approved by the BC Ministry of Environment.

A key consideration of these policies is the intent to ensure that valuable agricultural lands, which could otherwise be utilized for the production of farm products are preserved. During the application referral period, staff received feedback from both the Ministry of Agriculture and Interior Health. Both did not support the application, citing concerns of food security, commercial uses raising the cost of farm land beyond what most farmers can afford, and speculative pressure on surrounding parcels.

TECHNICAL REVIEW

Parking Requirements

A development permit was approved in 2006 (DP 06-23) for the Barona Beach Resort development, amending DP 05-08 to increase the number of units from 148 to 158⁴. The 2006 report stated that the required number of parking spaces required was 158 and that 188 stalls were proposed. No parking variance was required.

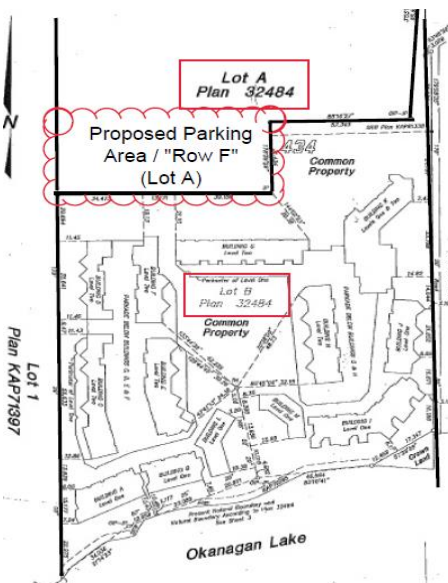


Figure 4: “Lot A” and “Lot B”

Off-Street Parking Spaces under Zoning Bylaw No. 871 (RDCO)

At the time DP 06-23 was approved, Zoning Bylaw No. 871 was in effect. Off-street parking requirements were determined by classifying the resort as a hotel. Hotels require 1 off-street parking space per sleeping unit; therefore, 158 units would require 158 off-street parking stalls, which is consistent with the 2006 report. However, the number of stalls required in 2006 did not take into account loading stalls. Accessible parking was considered to be included in the overall parking requirement number of 158. No visitor parking was required under Zoning Bylaw No. 871.

If the Barona Beach Resort development was approved under the current Zoning Bylaw No. 0154, if classified as hotel for parking requirements, the development would require 163 off-street parking spaces⁵. Revised parking numbers have been provided by the applicants’ agent, President of the Barona Beach Strata Council, confirming there are 213 vehicle parking spaces at the resort, and 9 motorcycle spaces.

Pritchard Drive Public Parking Area

⁴ DP 06-23 approved 158 units, however the applicant has confirmed there is an additional caretaker unit for a total of 159 units.

⁵ 163 includes 4 accessible spaces and 1 loading space.

In 2005, an application to the Ministry of Transportation (MOTI) was submitted by the developer of Barona Beach Resort to construct a public parking area on Pritchard Drive. A permit to construct the parking area was issued by MOTI in 2007. The parking area consists of 10 stalls and is located within the Pritchard Drive right of way, adjacent to the entrance of Barona Beach Resort (*Figure 5*). This parking area is City-owned, however it is maintained by the Barona Beach Strata. There is public access from the parking area to Boucheries Point on Okanagan Lake.

Following the construction of the parking area, the City received numerous complaints that signage had been installed at the site that stated the area was for Barona Beach visitor parking. The City's last correspondence with Barona Beach Resort regarding the use of the parking area was in 2017, which resulted in the signage being removed.



Figure 5: Public Parking Area

REFERRAL RESPONSES:

Agricultural Advisory Committee

On September 5, 2019, the AAC considered the proposed non-farm use application. The AAC resolved to not support the Non-Farm Use application as proposed.

Ministry of Agriculture

The Ministry of Agriculture does not support this application and provided the following rationale:

- The ALR is a provincial zone in which agriculture is recognized as the priority use. Farming is encouraged and non-agricultural uses are restricted.
- Commercial enterprises on farm land can raise the price of farm land beyond what most farmers can afford to pay and cause speculative pressure on surrounding parcels.
- When non-agricultural uses occur in the ALR, the potential for conflict between land uses and users can increase as practices may not be compatible.

Interior Health

Interior Health did not support the application and included the following rationale:

- The application does not reflect the Official Community Plan Bylaw No. 0100 which is to preserve farm land and promote food system security.
- Parking lot does not support food security.
- Farmland preservation helps to maintain a level of food production that contributes to food self-sufficiency and supports healthy eating.

Public Notification

No public notification is required by the ALC for a non-farm use application. Since there is no requirement for signage or notification for surrounding residents, no public correspondence has been received.

ALTERNATE MOTION:

THAT Council support the request to permit a non-farm use for a vehicle parking area in the Agricultural Land Reserve (File: A 19-04) for the property at 3992 Pritchard Drive North (Lot A, DL 434, ODYD, Plan 32484).

REVIEWED AND APPROVED BY:

Brent Magnan, Planning Manager
Tracey Batten, Deputy CAO/Corporate Officer
Paul Gipps, CAO

PowerPoint: X Yes ___ No

Attachments:

1. Context Map
2. Subject Property Map
3. Agriculture Land Commission Applicant Submission
4. Letter of Support (Barona Beach Resort)
5. Proposed Vehicle Parking Area Map
6. Pritchard Drive Overflow Parking Image