



## COUNCIL REPORT

To: Paul Gipps, CAO

Date: July 13, 2021

From: Jayden Riley, Planner II

File No: A 21-03

Subject: **A 21-03; Non-Farm Use Application; 3992 Pritchard Drive North**

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### RECOMMENDATION

**THAT** Council not support the request to permit a non-farm use for a vehicle parking area in the Agricultural Land Reserve (File: A 21-03) for the property at 3992 Pritchard Drive North (Lot A, DL 434, ODYD, Plan 32484).

### STRATEGIC AREA(S) OF FOCUS

Economic Growth and Prosperity (Council's Strategic Priorities 2021-2022)

### BACKGROUND

This non-farm use application is proposing a vehicle parking area for the neighbouring Barona Beach Resort residents and visitors on a portion of the adjacent agricultural lands known as 'Row F'. The application includes a community garden component; however this use is permitted by City Bylaws and ALR Regulations and does not require non-farm use consideration. A similar non-farm use application to permit parking on 'Row F' was presented and supported by Council in 2019 under file A 19-04; however, the proposal was ultimately rejected by ALC. The revised proposal now includes a community garden component and accessory uses (e.g. compost, refuse bin, parking), in addition to parking for resort residents and visitors.

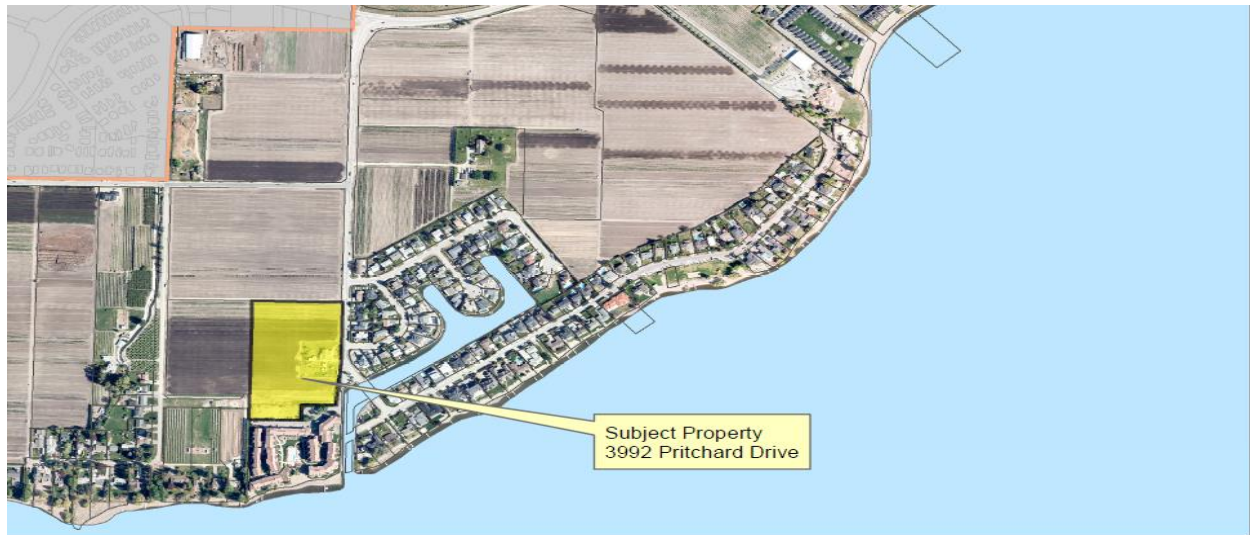
PROPERTY DETAILS			
<b>Address</b>		3992 Pritchard Drive North	
<b>PID</b>		003-428-494	
<b>Folio</b>		36412356.235	
<b>Lot Size</b>		36,300 m <sup>2</sup>	
<b>Owner</b>	Donnie and Jeffrey Naka	<b>Agent</b>	Cameron Costley, Barona Beach Strata Council
<b>Current Zoning</b>	Agriculture (A1)	<b>Proposed Zoning</b>	N/A

<b>Current OCP</b>	Agriculture	<b>Proposed OCP</b>	N/A
<b>Current Use</b>	Agriculture	<b>Proposed Use</b>	Agriculture with community garden, parking, refuse storage
<b>Development Permit Areas</b>	None		
<b>Hazards</b>	Impacts to agricultural lands		
<b>Agricultural Land Reserve</b>	Yes		

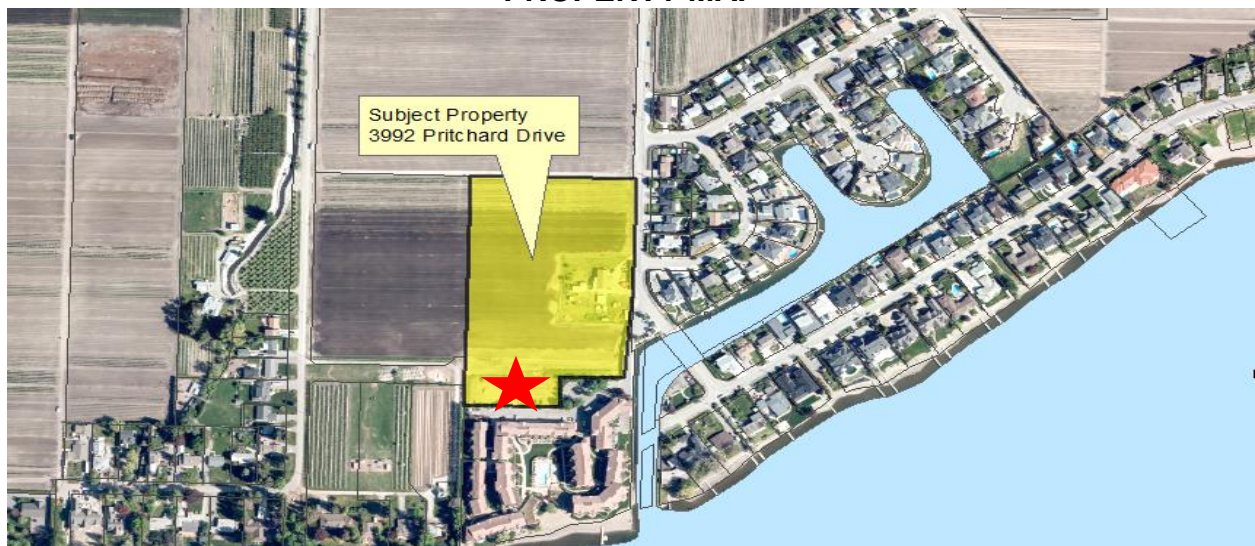
#### ADJACENT ZONING & LAND USES

<b>North</b>	^	Agriculture (A1/ALR)
<b>East</b>	>	Single Family Residential (R1)
<b>West</b>	<	Country Residential (RU1)
<b>South</b>	v	Tourist and Resort Commercial (R6)

#### NEIGHBOURHOOD MAP



#### PROPERTY MAP



## Legislative Requirements

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.

## DISCUSSION

The subject property is located at 3992 Pritchard Drive North, directly adjacent (north) to Barona Beach Resort and 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, 'Row F', is intended as a buffer between the subject agricultural property and the adjacent development, Barona Beach Resort ("Lot B") (*Figure 1*). Maintaining a green space buffer strip 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, and is reflected in the conditions of an existing lease agreement between the developer, RDCO and ALC.



Figure 1: subject property and non-farm use area ("Row F")

Since 2005, the property has informally been used by Barona Beach Resort as a dog park, smoking area, boat storage, and garbage and recycling storage.

### Proposal

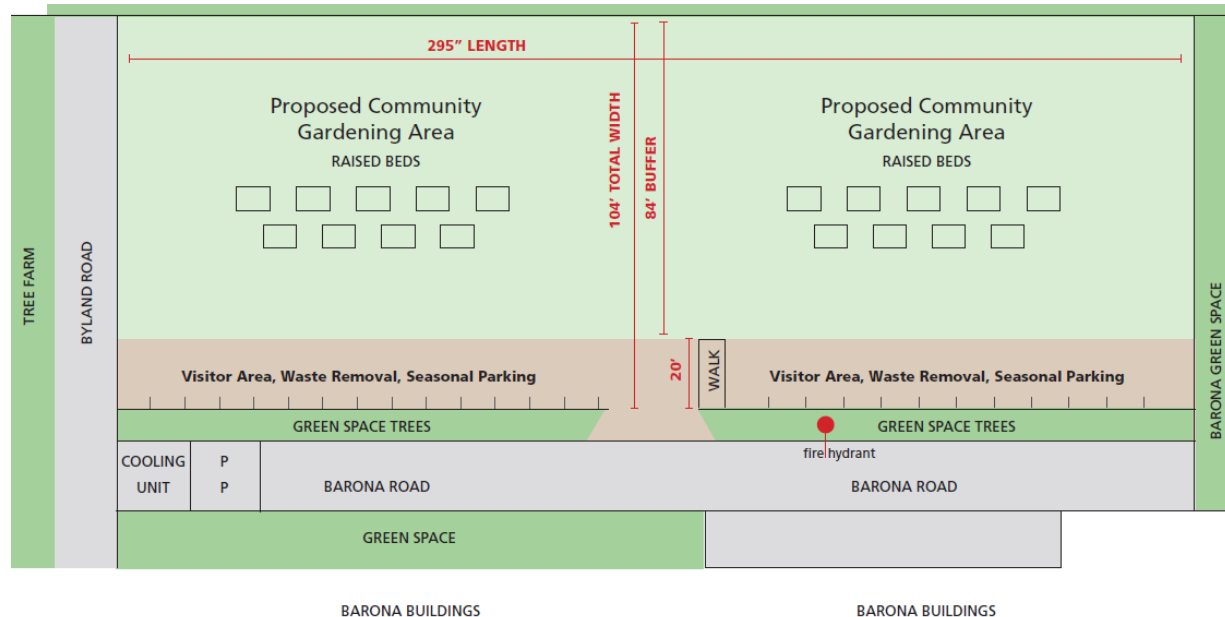
The applicant is proposing to use a portion of the subject property, known as 'Row F', for a publically accessible community garden and vehicle parking area for community garden users and Barona Beach Resort residents and visitors (*Figure 2, Attachment 1*). The site plan provided with the application shows approximately 18 raised garden boxes measuring 4x8 feet, and 26 parking spaces.

The applicant was not able to confirm the number of parking spaces that would be designated for community garden users as opposed to Barona Beach Resort residents and visitors. However, they stated that their plan indicated an area that could accommodate up to 20 stalls and would need to support other important items such as compost, tool shed, rain barrels, as well as volunteer and garden user seating area. The applicant has also stated they would be willing to reduce the parking area.

Only parking for the resort residents and visitors is being considered in this non-farm use application. The community garden and accessory uses are otherwise permitted under

the City's A1 Zone and the *ALC Act* and ALR Regulations and would not require a non-farm use application.

The placement of fill is not being proposed with this application, which was a component of a previous non-farm use application (File: A 19-04).



**Figure 2:** proposed site plan

### Applicant Rationale

The non-farm use application states that the proposed use is a community garden and seasonal parking for garden users and visitors (*Attachment 2*). It further states that the proposal will achieve Barona Beach Resort's goal of offering an opportunity to hobby garden<sup>1</sup>. The application does not specifically reference parking for resort residents and visitors as the non-farm use.

The applicant provided more clarity following the initial review of the application, stating their intention is to manage the community garden on the subject property; however they were unable to confirm the number of stalls that would be designated for Barona Beach Resort residents and visitors as opposed to the community garden use. The applicant was clear that they are willing to reduce the number of parking stalls for resort residents and visitors, but not eliminate them to avoid a non-farm use application.

<sup>1</sup> A community garden and accessory uses, including parking designated for community garden users, is compliant with City Bylaws and ALC regulations and would not required a non-farm use application.



### Historical File Review

Historical decisions made by the Regional District of the Central Okanagan (RDCO) and the ALC have attempted to maintain the area as a green space buffer between the subject agricultural land and the adjacent resort apartment 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”)<sup>2</sup>, 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 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, File: Z 04-14 (2004)
  - The RDCO approved an amendment to the OCP designation of “Lot B” subject to registration of a lease agreement over the “Row F” buffer.
- 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 use of a vehicle parking area.
- Development Permit, File: DP 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, File DP 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.
- Non-Farm Use Application, File: A 19-04 (2019)
  - To permit parking on ALR lands for the benefit of Barona Beach Resort to alleviate parking issues.

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<sup>2</sup> “Lot B” refers to the adjacent tourist commercial property, Barona Beach Resort

- This application was authorized by Council to proceed to the ALC for consideration.
- ALC Resolution No. 188/2020
  - The panel refused the proposal to construct a 0.3 ha parking area for the benefit of Barona Beach Resort visitors and residents.

## **Policy and Bylaw Review**

### Official Community Plan Bylaw No. 0100

The subject property has a Land Use Designation of Agriculture. The purpose of the Agricultural designation is to support the community's agricultural heritage and foster a local food system for greater self-sufficiency, economic development and local food security.

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.

### Zoning Bylaw No. 0154

Outdoor vehicle parking is not a permitted use in the Agriculture (A1) zone if not accessory to the principal use of the agricultural lands. The applicant would therefore require a subsequent rezoning application to permit vehicle parking on the subject property, should the non-farm use application be approved by the ALC.

### 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 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 that could otherwise be utilized for the production of farm products are preserved.

## **Referrals**

This application was referred to various external agencies and internal department for review and comments.

### Agricultural Advisory Committee (AAC)

The application was presented to the AAC on April 7, 2021. The AAC did not support the application due to a lack of farm use versus non-farm use in the proposal. The AAC stated concerns regarding the amount of parking in comparison to the garden beds and the fact that a similar application was previously rejected.

### BC Ministry of Agriculture

The Ministry of Agriculture commented on the application stating that it does not appear to constitute a benefit to agriculture and does not improve the functioning of Row F as a buffer.

## **Public Notification**

Public notification by mail, on-site signage, or advertisement of an agricultural application is not required under the *ALC Act*, *Local Government Act* or City Bylaws; therefore, no submissions from the public have been received.

## **CONCLUSION**

In considering the proposed parking for the resort residents and visitors as the non-farm use, staff do not recommend Council authorize the application to proceed to the ALC for consideration based on the following rationale:

- Row F is intended as a 'green space buffer' under an existing lease between the developer, RDCO and ALC, which was a condition of excluding the resort property from the ALC and rezoning to support the tourist commercial use.
- 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.
- The Ministry of Agriculture and the Agricultural Advisory Committee (AAC) do not support the proposal.
- A similar non-farm use proposal by was rejected by the ALC in 2020 (File: A 19-04).

## **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 21-03) for the property at 3992 Pritchard Drive North (Lot A, DL 434, ODYD, Plan 32484).

**REVIEWED BY**

Brent Magnan, Planning Manager

Mark Koch, Director of Development Services

Shelley Schnitzler, Legislative Services Manager/Corporate Officer

**APPROVED FOR THE AGENDA BY**

Allen Fillion, Acting CAO

Powerpoint: Yes ☒ No ☐

**Attachments:**

1. Site Plan
2. ALC Application