



COUNCIL REPORT

To: Paul Gipps, CAO

Date: August 24, 2021

From: Stirling Scory, Planner II – Long Range

File No: A 21-04

Subject: **A 21-04; Non-Farm Use; 1221 Hudson Road**

RECOMMENDATION

THAT Council support the request to permit a non-farm use for the construction of a School District Early Learning Program Facility on the Hudson Road Elementary School property (File: A 21-04) for Lot 45, District Lot 506, Osoyoos Division Yale District, Plan KAP5381 (1221 Hudson Road); and

THAT Council direct staff to forward the application to the Agricultural Land Commission for consideration.

STRATEGIC AREA(S) OF FOCUS

Economic Growth and Prosperity – Support initiatives that promote the community’s livability, and other attributes that position West Kelowna as a place to live, invest, work and play.

BACKGROUND

This application is proposing a non-farm use, an Early Learning Program Facility, on a portion of the subject property (1221 Hudson Road). A portion of the property is within the Agricultural Land Reserve (ALR); however, the majority of the property is being used for a school, including the school buildings and ancillary uses, i.e. field, playground, parking. The portion of the property that has not been included in the ALR is located on the south portion of the property and is in a heavily forested area, which forms part of Mt. Boucherie. The area that has been selected is an undeveloped grass field.

PROPERTY DETAILS	
Address	1221 Hudson Road
PID	010-346-961
Folio	36412732.000
Lot Size	788954.2 m ² (19.51 acres)

Owner	School District No. 23	Agent	Shannon Tartaglia
Current Zoning	P2 – Institutional and Assembly Zone	Proposed Zoning	N/A
Current OCP	Institutional	Proposed OCP	N/A
Current Use	Education Facility (School)	Proposed Use	N/A
Development Permit Areas	Fire; Hillside		
Hazards	N/A		
Agricultural Land Reserve	Yes.		

ADJACENT ZONING & LAND USES

North	^	Gasoline Service Station Commercial (C3)
East	>	Single Detached Residential (R1)
West	<	Institutional and Assembly (P2) Parks and Open Space (P1) Single Detached Residential (R1)
South	v	Parks and Open Space (P1)

NEIGHBOURHOOD MAP



PROPERTY MAP



DISCUSSION

Subject Property

The subject property (1221 Hudson Road) is located within the Boucherie Centre Neighbourhood and is currently used as an elementary school, in an established residential community that largely consists of single family homes. Hudson Road Elementary is located within School District No. 23; construction began in 1974 and was completed in 1976 and has been operating since. While only a portion of the property is within the ALR, the area includes the existing school buildings and ancillary uses (i.e. parking, sports field). The rear portion of the property not within the ALR is heavily wooded and forms part of Mt. Boucherie. The proposed location for the facility is an undeveloped grass field.

History

The proposal is being submitted in consideration of a previous application (A 18-05), and in follow-up to the ALC's Decision regarding the application (Decision # 348/2019; ALC File #57814). The file, A 18-05, was presented to Council on October 26, 2018 with the recommendation that Council support the request to exclude 1221 Hudson Road, one of three properties, from the ALR. The application was submitted through Section 30(1) of the *Agricultural Land Commission Act* to exclude property from the ALR for the purpose of expanding and modifying an existing institutional use. The intent of the applicant's proposal was to enable the applicant to respond in a more efficient and timely manner to the projected growth and demand for educational requirement necessary to service West Kelowna, and to allow for the modification and or expansion of the existing school without having to apply to the Commission for further consideration and review.

In their proposal, School District No. 23 provided the rationale that their decision to pursue exclusion was supportable because:

- The subject property is currently operating as public institutional land and is zoned institutional;

- The school, Hudson Road Elementary, has been operating continuously since its construction in 1976 (construction started in 1974).
- The school is located in an established residential community with no surrounding or adjacent agricultural land uses; and
- Population growth in West Kelowna will require both temporary and permanent additions to the elementary school to respond to increased demand.

Council passed a motion in support of the request to exclude Lot 45, District Lot 506, Osoyoos Division Yale District, Plan 5381(1221 Hudson Road) from the ALR.

The Agricultural Land Commission considered the application; however, in their review it was determined that exclusion of 1221 Hudson Road was not supportable. In their decision, the ALC considered the context of the application in review of Section 6 of the *Agricultural Land Commission Act* which highlights the following be considered:

- The preservation of the agricultural land reserve;
- The encouragement of farming of land within the ALR;
- To encourage local government, first nations, and the government's agents to enable and accommodate farm use of their land in the ALR.

The ALC's decision (Resolution #348/2019) considered the following in their review:

- Is the land appropriately classified as ALR based on agricultural capability and suitability.
- Should the property be excluded from the ALR to accommodate expansion of or modification to existing institutional uses.

Decision:

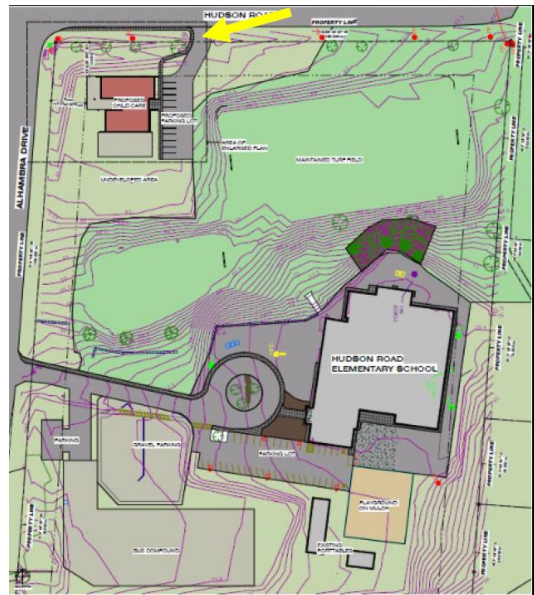
- It was determined through the review process that based on the agricultural capability ratings that the subject property has prime agricultural capability;
- That while only a portion of the property is used for institutional use, the ALC believed that there is opportunity for agricultural purpose in the future, including smaller scale urban market gardens.
- It was also determined that while the school has been in operation since 1974 and that there is growing demand for educational facilities, the ALC could not support the application for exclusion. However, the ALC made a note that they could be supportive of allowing for the expansion of non-farm use of properties for institutional use in an effort to provide administrative aid to efficiencies.

The School District appealed the ALC's decision and submitted a reconsideration for the application to the Agricultural Land Commission; however, the ALC did not reconsider the exclusion of the property from the ALR. However, the ALC did support a non-farm use request for the addition of portables to accommodate student growth and also approved that a school could be constructed on the Webber Road site.

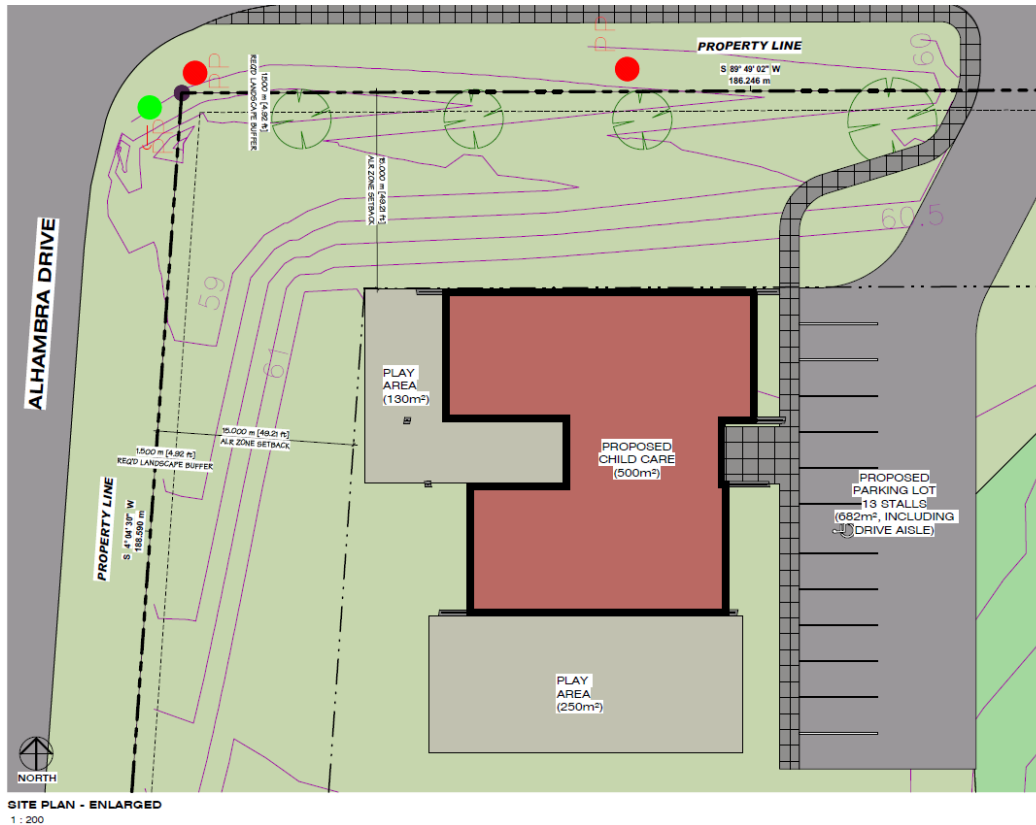
Proposal – Non Farm Use

The School District is proposing to construct an early learning program facility on the northwestern corner of the property; the facility would be 500 m² (5,382 sq. ft) as outlined in their proposal summary (*Attachment 1*). The proposed facility includes 92 new childcare spaces and would provide service of daycare, pre-school, and after-school programs. The proposed facility would be operated in partnership with the Okanagan Boys and Girls Club and provide the following:

- Group Childcare (Under 36 Months) – 8 spaces
- Group Childcare (30 Months to School Age) – 16 spaces
- Preschool – 20 spaces
- Group Childcare (School Age) – 48 spaces
- Total Spaces – 92 new childcare spaces.



The proposed facility would have a total approximate area of 1,562 m² which would include the proposed childcare facility (500 m²), two play areas (380 m² total), and a parking lot and access road via Hudson Road (682 m²), this would be approximately 2% of the total subject property. It is proposed that approximately 1,600 m² of imported fill material would be required for the development.



Applicant Rationale

When tasked with finding a location for a new childcare facility in one of the West Kelowna elementary school sites, the School District considered land availability, location of the property in relation to other childcare facilities, and anticipated population growth as criteria for a potential site. In their review, the School District identified the subject property as the most viable because of its central location, access to the highway, and limited impact of increasing traffic on existing residential neighbourhoods.

Policy and Bylaw Review

Official Community Plan Bylaw No. 0100

The subject property's Land Use Designation is Institutional. The intended use of the Institutional Land Use Designation is to provide institutional uses that support governance, health, culture and learning¹. The potential uses that are envisioned for lands in the Institutional Designation include schools, community centres, fire halls, health centres, and other associated uses. The intended use of the land use designation is consistent with the OCP.

Agricultural Plan

The purpose of the Agricultural Plan is to define the City's role with respect to agriculture and identify appropriate actions to support the viability of farming. The Agricultural Plan does not mention circumstances with existing school operations on them. The Plan

¹ OCP Section 3.3, Table 4 Land Use Designation Summary

includes three strategies: Education & Promotion, Diversity and Expansion, and Conservation & Environmental Sensitivity; through these strategies, the Plan provides recommendations. Recommendation 3 speaks to the provision of community gardens as a source of healthy food choices, sustainable community design, and education. Recommendation 11 speaks to the protection of agricultural land in the ALR or that is zoned A1, so that these lands may be used for agricultural purposes.

Zoning Bylaw No. 0154

The property is zoned Institutional and Assembly (P2), which permits uses that provide a range of institutional, administrative, health and safety, and recreational uses. The zone permits the proposed use. At this time detailed development and site plans have not been submitted for review.

The proposed facility meets the minimum parcel area, minimum parcel frontage, and maximum building height requirements for the zone. Furthermore, all siting regulations will be met.

Institutional uses require that 2.5 parking spaces be provided per 100 m² gross floor area (GFA). The proposed building will have a GFA of 500 m² which requires that 13 parking spaces be provided; the proposal has provided this.

Agricultural Land Commission Act (ALCA)

Under Section 20 of the ALC Act, an owner may apply to the ALC under Section 25 for a non-farm use. The application for a non-farm use cannot proceed to the ALC for consideration unless it is first authorized by resolution through the local government.

Technical and Referral Review

Servicing

The owner will be responsible for frontage improvements to meet Bylaw 249, City of West Kelowna Standard Detail 207, including sidewalk, curb & gutter, and catch basins for road drainage.

- Access from Hudson Road is strongly discouraged, the City would prefer access be provided via Alhambra Drive if possible. Additional discussions with SD23 are ongoing on this matter, but not anticipated to impact the application.
- Accesses to the subject site will be required to meet Traffic Bylaw 092 and Bylaw 0249.
- A Functional Servicing Report completed by a Civil Engineer will be required at time of Building Permit Application.
 - **Water:** Water service is available to the site, but a water system must be designed, a single domestic water service must service the property, a water system design must be provided in a Composite Utility Plan, the existing off-site hydrant is acceptable unless the new building requires sprinklering in which case it will need to be within 45m. of the Fire Department Sprinkler Connection

- **Sanitary Sewer:** Service is available on the property, sanitary sewer system design to be included in Composite Utility Plan, a single sanitary service must service the property. The new building and existing building must connect together.
- **Stormwater:** There is no stormwater service. A private storm facility is required to store and infiltrate storm flows.
- A Geotechnical Report will be required.
- If off-site work is required by shallow utility providers, underground servicing design drawings for shallow utilities (Hydro, Shaw and Telus) will be required at time of Building Permit Application.
- The building will need to be classified under the BCBC Part 3 c/w a full slate of registered Professionals.

Agricultural Advisory Committee (AAC)

The AAC supported the application, but did have concerns over the use of ALR land. There was discussion on the desire to preserve ALR land and whether there was potential for farming on the site in the future. The AAC provided the following questions/comments:

- How much potential agricultural land (not including slope) would the building and parking lot occupy? Approximately less than 25% taken out of potential farm land. This portion of the property has the best access and requires less grading.
- Are there any agricultural benefits for this application? Agriculture is not viable for this property.
- Consider encouraging inclusion of any agricultural benefit on future applications.

Ministry of Agriculture

- While the history of the site is recognized and the importance of a new childcare facility in the community is demonstrated, the application does not benefit agriculture.
- The soil and slope in the proposed application area are conducive to growing a wide array of climatically adapted crops; however, well drained soils can be a limiting factor to water and nutrient holding capacities.
- The owner could consider the BC Land Matching Program to support new and existing farmers who have unused or underutilized land.
- The ALC requirements pertaining to the placement of fill and removal of soil may impact the proposal. Filing an ALC Notice of Intent may be required for the proposed 1600 m² of fill.

Childcare Planning & Needs Assessment

The City of West Kelowna has recently participated in a co-operative regional Childcare Planning & Needs Assessment for the Central Okanagan with the City of Kelowna, District of Peachland and District of Lake Country. The report provided information on the current state of childcare within the region, and also provided a detailed needs assessment which identified that a multi-dimensional, community approach is required to improve childcare

in the region. West Kelowna's annual space creation target over the next 10 years is 306 spaces (23 spaces for ages 0 – 5 and 283 spaces for ages 6 – 12, based on population projections and the City's current childcare inventory.

Legislative Requirements

Under Section 20 of the *Agricultural Land Commission Act*, a land owner may apply to the commission for permission under Section 25 for a non-farm use or agricultural land. Prior to consideration by the ALC, the owner must first receive authorization from the local government in the form of a resolution.

FINANCIAL IMPLICATIONS

The socio-economic benefit that this facility may have on the community would greatly improve the livability of the Boucherie Centre Neighbourhood in supporting a community to live, work, and play.

COUNCIL REPORT / RESOLUTION HISTORY

Date	Report Topic / Resolution	Resolution No.
November 8, 2018	THAT Council support the request to exclude the following parcel from the Agricultural Land Reserve (A 18-05): Lot 45, Plan KAP5381, ODYD, DL 506 (1221 Hudson Road)	C416/18

CONCLUSION

While the application does reduce future agricultural capabilities and production on the site, the application does not exhaust the potential to have agricultural operations in the future. As the ALC identified, there may be opportunities to support community gardens, which would be a complimentary use to the existing residential community, and could serve a dual purpose in educating students.

The non-farm use application for this site is unique in that the site while registered as ALR, has been operating as a school for 47 years. It is understood that the ALC and ALR classification of land came into effect 1 year prior to the construction of the school, but the history of site indicates that this has been and will likely remain an institutional use.

Understanding the challenge that Central Okanagan faces in providing early childcare space can be addressed in part through this application. The proposal is situated in an established neighbourhood that provides live, work, and play options making this area a more complete neighbourhood.

The intent of the original application considered exclusion as a means of creating administrative aid and efficiencies for the school for current and future projects, the ALC determined that exclusion was not supportable. The ALC provided comment in their original decision (Resolution #348/2019) that while the decision to not support exclusion, the ALC could be supportive of allowing expanded non-farm uses of the property for institutional aid with administrative efficiencies. The proposed project is in line with this direction.

Alternate Motion:

THAT Council not support the request to permit a non-farm use for a School District early learning program facility in the Agricultural Land Reserve (File: A 21-04) for Lot 45 District Lot 506 Osoyoos Division Yale District, Plan KAP5381, Hudson Road School (37), (1221 Hudson Road; and

THAT Council direct Staff to forward the application to the Agricultural Land Commission for formal consideration.

REVIEWED BY

Brent Magnan, Planning Manager

Mark Koch, Director of Development Services

Shelley Schnitzler, Legislative Services Manager/Corporate Officer

APPROVED FOR THE AGENDA BY

Paul Gipps, CAO

Powerpoint: Yes No

Attachments:

1. Attachment 1 – Proposal Summary