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**MEETING TYPE:** Regular Council Meeting  
**MEETING DATE:** June 4, 2024  
**AUTHOR:** Jason Tran, Planner  
**DEPARTMENT:** Planning and Development  
**ITEM TITLE:** Agricultural Land Reserve |ALR00177 | 12125 Pow Road  
**DESCRIPTION:** Agricultural Land Reserve application to temporarily retain an existing single family residence during the construction of new single family home

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#### **PURPOSE**

To consider a proposal to temporarily retain an existing single family residence during the construction of a new single family home on a property in the Agricultural Land Reserve.

#### **RECOMMENDATION**

THAT Agricultural Land Reserve application ALR00177 for property at 12125 Pow Road, legally described as LOT 1 SECTION 21 TOWNSHIP 20 OSOYOOS DIVISION YALE DISTRICT PLAN 6747, Roll 02792.000 be supported;  
AND THAT ALR00177 be forwarded to the Agricultural Land Commission.

#### **EXECUTIVE SUMMARY**

The subject property is zoned A1—Agriculture and is located within the Agricultural Land Reserve (ALR). The applicant proposes to build a new home with the owners continuing to occupy the existing residence during the construction period. The Agricultural Land Commission (ALC) considers this application a Non-Adhering Residential Use (NARU) per ALC Policy L-26 since there are already two residential buildings on the property.

The proposed development would comply with policies in the Official Community Plan (OCP) that permit residential use in the Agricultural Land Reserve. Additionally, the applicant would need to comply with the ALC's Policy L-26 to temporarily retain the existing single family residence during the construction of a new single family home on a property in the ALR.

The Agricultural Advisory Committee (AAC), at its meeting on May 13, 2024, considered the proposal and provided unanimous support for the application. The land has been cleared, but it has not been in production since 2006. The proposed single family dwelling would not impact the existing farming operation.

Staff support the owners continuing to reside in their existing dwelling during the construction of their proposed residence subject to the demolition of the existing dwelling once the proposed dwelling is occupied.

#### **BACKGROUND/HISTORY**

The homeowners acquired the property in 1994 and prioritized the investment in the land's agricultural potential before considering building a permanent principal residence. The principal residence is a 44-year-old mobile home built on a wooden foundation. The current home does not meet the homeowners' needs as they age.

**TABLE 1: PROPERTY INFORMATION**

<b>PROPERTY INFORMATION</b>			
Civic Address:	12125 POW ROAD, LAKE COUNTRY, BC V4V 1G2		
Roll Number:	02792000		
Legal Description:	PID: 002-539-993 LOT 1 SECTION 21 TOWNSHIP 20 OSOYOOS DIVISION YALE DISTRICT PLAN 6747		
Applicant:	SJT CONTRACTING INC	Owner(s):	MADSEN, JOHN MADSEN, JOYCE
OCP Designation:	Agricultural		
Existing Zoning Designation:	A1 – Agriculture 1		
Land Use Contract:	No		
ALR:	Yes		
Parcel Size:	2.954 HECTARES (7.301 ACRES)		
DP Area(s):	None!		
Water Supply:	DLC		
Sewer:	On-site		
Site Context:	Zoning:	Use:	
<i>North:</i>	A1 – Agriculture 1	Agriculture	
<i>East:</i>	A1 – Agriculture 1	Agriculture	
<i>South:</i>	A1 – Agriculture 1	Agriculture	
<i>West:</i>	A1 – Agriculture 1	Agriculture	

**SITE CONTEXT**

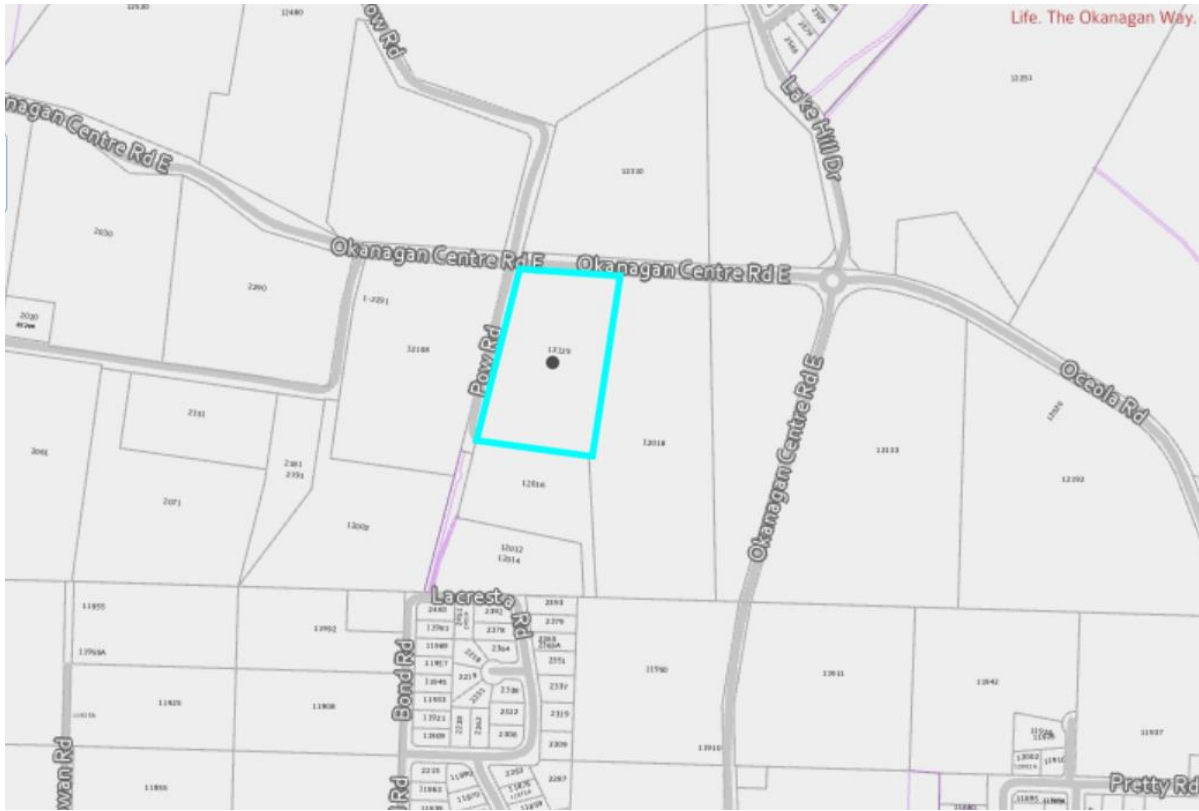
The property is 2.954 ha (7.301 acres), and it is a fully operational orchard (Jays Berry Farm) with four existing buildings. Water is serviced by the District of Lake Country and an on-site septic system. The septic field is just north of the existing principal home.

The four buildings are:

1. The Property Owner's principal residence is a 130-square-metre 1978 mobile home that was relocated to the property in 1994. (See Site Photo 1 – Building on the right)
2. Secondary Building serves two purposes: The homeowners' relatives live in about 40% of the building, while the other 60% is used for packing supplies related to the crop. It occupies 120 square metres. (See Site Photo 1 – Building on the left)
3. A Tertiary Building is a non-enclosed structure used as a storage shed for farm equipment. It occupies 110 square metres. (See Site Photo 2)
4. The Fourth Building is also a non-enclosed structure used as a storage shed for farm equipment. It occupies 92 square metres. (See Map 2 & Figure 1)

The subject property is located on the south side of Okanagan Centre Road East and east of Pow Road. The parcel is surrounded by other ALR properties which are all in agricultural production, including two wineries on Goldie Road.

MAP 1: LOCATION MAP



MAP 2: ORTHOPHOTO









**SITE PHOTO 2: LOOKING WEST**



**SITE PHOTO 3: PROPOSED NEW HOME LOCATION**



**TABLE 2: FILE CHRONOLOGY**

<b>Date</b>	<b>Event</b>
2022-12-13	Application Submission
2024-05-03	Internal & External Referrals
2024-05-13	Agricultural Advisory Committee (AAC) consideration
2024-06-04 (Today)	Council consideration

**DISCUSSION/ANALYSIS**

The homeowners are looking to replace their principal residence with a new home that would allow them to meet their mobility needs, benefit from a home constructed to modern energy efficiency standards, and reduce their overall maintenance costs (Attachment A).

The total floor area of the new house would be less than the maximum (500 m<sup>2</sup>) allowed by the ALC. The applicant is proposing an approximately 210 m<sup>2</sup> (2,250 sq ft) new home. The proposed location of the new home is a cleared area that would not have a negative impact on the operation of the farm (Attachment B). There is one maple tree in the location of the new home that may need to be removed (Site Photo 3). The new house would have a new septic field if permitted.

The Agricultural Land Commission's policy (L-26) on Non-Adhering Residential Use Application for Housing in the ALR includes guidance for homeowners who may wish to occupy an existing residence while a new (replacement) residence is constructed (Attachment C). The homeowners are aware of ALC Policy L-26 and are prepared to adhere to the three requirements from the ALC:

- a. Registration of a restrictive covenant requiring the removal of the original principal residence;
- b. A signed affidavit committing to the removal of the original principal residence; and
- c. An Irrevocable Line of Credit (ILOC) sufficient to ensure removal of the original principal residence within 60 days of completion of the new principal residence.

Prior to review by Council, the AAC considered the proposed non-adhering residential use application. The Committee unanimously supported the proposed development. Through discussion, the AAC reasoned that because the proposed location of the home is cleared and not been in production since at least 2006, the proposed development would not impact the existing farming operation.

Ministry of Agriculture and Food staff provided the following assessment: "Given the existing contiguous footprint Ministry staff acknowledge that locating the new principal residence in the proposed location is likely to have the least impact on the productive area of the existing orchard." The residential footprint area appears to be within the Ministry's standard of 3000 m<sup>2</sup> for the combined footprint for a principal residence (2000 m<sup>2</sup>) and an additional farm residence (1000 m<sup>2</sup>) as per section 2.4.6.5.2 of the Ministry's Guide for Bylaw Development in Farming Areas (Attachments D and E).

Staff support the proposed development as it would allow the homeowners to continue the farm operation.



## APPLICABLE LEGISLATION AND POLICIES

### Ministry of Agriculture and Food: Guide for Bylaw Development in Farming Areas (the Guide)

Link to the full guide: [Here](#)

#### Agricultural Land Commission (ALC)

The proposed development would be subject to the following:

Policy L-26 Non-Adhering Residential Use Application for Housing in the ALR

#### Agriculture Plan

Goal 1: Support agriculture throughout government process, policy, and regulation.

- 1.1 Continue to protect and preserve the ALR.

#### Official Community Plan (OCP)

The proposed development meets the following OCP policies:

14.3 “The District of Lake Country is committed to working with the Agricultural Land Commission to support their objective of protecting farmland throughout British Columbia. All development on lands designated as Agricultural must respect the policies of the Agricultural Land Commission.”

#### Zoning Bylaw

12.1. A1 – Agriculture 1

#### Building Bylaw

12.5 The Building Bylaw regulates conditions addressing temporary residences during the period of construction of a new residence ([12.5 a – m](#)).

## CONSULTATION

### Agricultural Advisory Committee:

As noted, staff presented to the AAC on May 13, 2024. The committee supported the application unanimously.

### B.C. Ministry of Agriculture and Food:

The full letter is Attachment E, and here is the summary of their letter:

- The subject property is surrounded by A1 – Agriculture 1, and it is adjacent to one cherry orchard to the east.
- There are two residential dwellings on the property with accessory buildings.
- The residential footprint appears to be within the Ministry’s standard of 3000 m<sup>2</sup> as per the Ministry’s Guide for Bylaw Development in Farming Areas (the Guide).
- The current residential footprint is not within the 60m setback from the road as recommended in the Guide
  - Given the existing contiguous footprint Ministry staff acknowledge that locating the new principal residence in the proposed location is likely to have the least impact on the productive area of the existing orchard.
- The Ministry noted the ALC policy L-26 and this application is subjected to the conditions set out under that policy L-26.
  - Also, the homeowners should provide an explanation why the homeowners must reside in the current house until the new residence is built.
- The proposed location for the new residence is situated on the contiguous residential footprint and will not impact the productive area of the existing orchard but recommend that the applicant reconsider whether it is necessary for them to live in the existing residence while constructing the new principal residence.

## ALIGNMENT WITH COUNCIL STRATEGIC PRIORITIES

- Create and Support Opportunities for a Healthy, Active and Inclusive Community
- Create Infrastructure That Meets Community Needs
- Encourage Growth of the Downtown Core

- Ensure Sustainable Water Service Delivery for the Community
- Explore Opportunities to Engage with Regional Local Governments for the Betterment of the Community
- Honour Reconciliation by Strengthening Relationships and Inclusiveness with Our Indigenous Partners
- Identify and support improvements to the Development Process
- Implement the Agricultural Plan
- Preserve, Protect and Enhance Our Natural Environment
- Secure long term wastewater service delivery for our community
- Support Opportunities to Diversify Lake Country's Tax Base

#### **ALIGNMENT WITH MASTER PLANS**

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Agricultural Plan                  | <input checked="" type="checkbox"/> Official Community Plan                |
| <input type="checkbox"/> Climate Action Charter                        | <input type="checkbox"/> Parks & Recreation Master Plan 2019               |
| <input checked="" type="checkbox"/> Housing Needs Report               | <input type="checkbox"/> Sanitary Sewer System Map                         |
| <input type="checkbox"/> Liquid Waste Management Plan Stage 1/2 Report | <input type="checkbox"/> Transit Future Plan-Central Okanagan Region-DRAFT |
| <input type="checkbox"/> McCoubrey Plateau Area Structure Plan         | <input type="checkbox"/> Transportation for Tomorrow                       |
| <input checked="" type="checkbox"/> Mobility Master Plan               | <input type="checkbox"/> Water Master Plan                                 |

#### **OPTIONS**

The following options are presented for the Council's consideration:

- A. THAT Agricultural Land Reserve ALR00177 for property at 12125 Pow Road, legally described as LOT 1 SECTION 21 TOWNSHIP 20 OSOYOOS DIVISION YALE DISTRICT PLAN 6747, Roll 02792.000 be supported;  
AND THAT ALR00176 be forwarded to the Agricultural Land Commission.
- B. THAT Agricultural Land Reserve ALR00177 for property at 12125 Pow Road, legally described as LOT 1 SECTION 21 TOWNSHIP 20 OSOYOOS DIVISION YALE DISTRICT PLAN 6747, Roll 02792.000 not be supported;  
AND THAT ALR00176 be forwarded to the Agricultural Land Commission.
- C. THAT Agricultural Land Reserve ALR00177 for property at 12125 Pow Road, legally described as LOT 1 SECTION 21 TOWNSHIP 20 OSOYOOS DIVISION YALE DISTRICT PLAN 6747, Roll 02792.000 not be supported;  
AND THAT ALR00176 not be forwarded to the Agricultural Land Commission.
- D. THAT Agricultural Land Reserve ALR00177 for property at 12125 Pow Road, legally described as LOT 1 SECTION 21 TOWNSHIP 20 OSOYOOS DIVISION YALE DISTRICT PLAN 6747, Roll 02792.000 be deferred pending receipt of additional information as identified by Council.

Respectfully Submitted,  
Jason Tran, Planner



## Report Approval Details

Document Title:	ALR00177 - 12125 POW RD - Non-Adhering Residential Use Application Council report.docx
Attachments:	<ul style="list-style-type: none"> <li>- Attachment A - ALR00177 - ALC Submission.pdf</li> <li>- Attachment B - ALR00177 - Aerial-Photos of buildings and land.pdf</li> <li>- Attachment C - ALR00177 - ALC Policy_I-26_-_non-adhering_residential_use_applications.pdf</li> <li>- Attachment D - ALR00177 - S 2.4.6.5.2 - The Guide.pdf</li> <li>- Attachment E - ALR00177 - Ministry of Agriculture and Food Letter.pdf</li> </ul>
Final Approval Date:	May 27, 2024

This report and all of its attachments were approved and signed as outlined below:

**Brian Zurek, Manager of Planning - May 13, 2024 - 11:51 AM**

**Reyna Seabrook, Director of Corporate Services - May 26, 2024 - 12:25 PM**

**Paul Gipps, Chief Administrative Officer - May 27, 2024 - 7:50 AM**