



# BOARD REPORT

**TO:** Chair and Directors

<b>File</b>	LC2521D
<b>No:</b>	PL20160154

**SUBJECT:** Electoral Area D: Agricultural Land Commission (ALC)  
Application Section 20(3) - Non-Farm Use LC2521D (Jordan Baer)

**DESCRIPTION:** Report from Christine LeFloch, Development Services Assistant, dated May 29, 2017.  
6024 Highway 97B, Ranchero

**RECOMMENDATION #1:** THAT: Application No. LC2521D, Section 20(3) Non-Farm Use, for That Part of the Southwest ¼ of Section 33, Shown Red on Plan B3050, Township 19, Range 9, West of the 6<sup>th</sup> Meridian, Kamloops Division Yale District, Except Part Now Road See Plan H10220 be forwarded to the Provincial Agricultural Land Commission recommending approval, this 15<sup>th</sup> day of June, 2017.

## SHORT SUMMARY:

The subject property is located in the Ranchero area of Electoral Area 'D'. The owners have made a Non-Farm Use application to the ALC to allow a second residence that is not a manufactured home on the subject property to provide care for a family member. The property is 100% within the ALR.

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<b>VOTING:</b>	Unweighted <input type="checkbox"/> Corporate	LGA Part 14 <input checked="" type="checkbox"/> (Unweighted)	Weighted <input type="checkbox"/> Corporate	Stakeholder <input type="checkbox"/> (Weighted)
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## BACKGROUND:

PROPERTY OWNER:  
Jordan and Heidi Baer

AGENT:  
N/A

ELECTORAL AREA:  
D

CIVIC ADDRESS:  
6024 Highway 97B, Ranchero

LEGAL DESCRIPTION:  
That Part of the Southwest ¼ of Section 33 Shown Red on Plan B3050, Township 19,

Range 9, West of the 6<sup>th</sup> Meridian, Kamloops Division Yale District, Except Part Now Road  
See Plan H10220

**SIZE OF PROPERTY:**

4.6 Ha (11.37 ac)

**DESIGNATION:**

Ranchero/Deep Creek Official Community Plan Bylaw No. 750

AG – Agriculture

**ZONING:**

Ranchero/Deep Creek Land Use Bylaw No. 2100

R – Rural

**CURRENT USE:**

Agriculture, residential (2 residences), home occupation

**PROPOSED USE:**

Agriculture, residential (legalize 2nd residence temporarily), home occupation

**SURROUNDING LAND USE PATTERN:**

North: rural, agriculture, highway commercial (across Hwy 97B)

South: rural, agriculture

East: Hwy 97B, country residential

West: rural, agriculture

**SITE COMMENTS:**

Staff visited the property on October 4, 2016. This property includes a level, fenced pasture located adjacent to Highway 97B. The owner noted that they originally had a few head of cattle in the pasture but that they had been sold to another farm so that the fencing could be repaired and weed control could be completed. He has confirmed that there are a few cows and hogs on the property now. A second pasture area occupies the western portion of the property. This area is intended to be developed as a market garden. The owners have been experimenting with various market crops to learn what grows best on the land prior to proceeding with their plans to develop this area and are working on a financial plan for this endeavour. Amos pond is located at the property's southwest corner. The owners have water rights to this pond and intend to use it for irrigation of the future market garden and pasture.

Buildings on the property include the owner's residence (constructed in 2014), the original farmhouse (which was converted to a residence for the owner's parents), a large shop that is used for farm machinery maintenance, barn, garage, jam kitchen (used by the owner's parents for a small home occupation), and a number of sheds.

The original farmhouse was constructed in the 1950's. The owner renovated and added onto the house to create a wheelchair accessible residence for his parents in 2016 in order to accommodate his father who suffers from Parkinson's disease. The upstairs of the home is used as the residence while a portion of the walkout basement is intended to

provide space for retail sales and an office for the farm. The owner has indicated that 70% of the lower level of the house is crawl space and the remainder will be used for farm purposes as noted above.

There is also a small jam business on the property that is run by the parents of the owner. The fruit used for this business is not grown on the farm therefore this business is not an activity designated as farm use under the Agricultural Land Commission regulations. However, the area used for this business is less than 150 m<sup>2</sup> and therefore meets the ALC and zoning regulations for home occupation use. An additional home occupation (construction business) was present on the property at the time of the site visit. The type and scale of home occupation is not permitted on the subject property. The owner has since moved his construction business off the property to a leased lot in the City of Salmon Arm.

Staff note that a permanent secondary residence is not a permitted use in the Rural Zone but may be permitted as a temporary use subject to specific conditions as outlined in the Policy section below. This application is the result of bylaw enforcement due to a complaint received regarding construction of the secondary residence.

**Land Interests in the Community:**

The owner does not have any other interests in lands in this area of the CSRD.

**Soils Capability:**

The subject parcel is 100% within the ALR. According to Canada Land Inventory the soil capability of the parcel is:

The eastern portion of the subject parcel has 60% Class 5 and 40% Class 4 soils within low moisture holding capacity and topography limitations

These soils can be improved to 60% Class 4 and 40% Class 3 soils with low moisture holding capacity, excess water and topography as limitation.

The western portion of the subject parcel has 60% Class 4 soils with low moisture holding capacity and excess water and 40% Organic soils.

These soils can be improved to 60% Class 3 soils with low moisture holding capacity and excess water and 40% Organic soils.

**History:**

There have been a few ALC applications made in the area. See ALR History Map.

- #1299 (1977) application for exclusion for the purpose of developing a mobile home park was refused.
- #1307 (1977) application for exclusion was refused but subdivision of the parcel into a 2.2 ac lot and a 5.5 ac remainder was approved.

- #1370 (1982) application for a non-farm use to expand an existing auto wrecking business was refused.
- #1613 (1979) application for exclusion of the 9.98 ac parcel for the purpose of developing a mobile home park was refused.
- #1834 (1982) application for a non-farm use for a school was approved.
- #2003 (1986) application to subdivide a 0.57 ha lot with an 8.2 ha remainder was approved.
- #2296 (2004) application for a non-farm use to develop a golf course was approved.
- #LC2328 (2005) application to exclude 10.6 ha to be used for a mix of residential and golf course uses and include 8.6 ha proposed to be developed as part of a golf course was approved.
- #LC2327 (2006) application for a non-farm use to develop a golf teaching centre, driving range and maintenance equipment storage area was approved.
- #LC2378 (2008) application for a 2 lot subdivision was refused. Upon appeal ALC approved the application.

**POLICY:**

Policies that relate to this application include the following:

Ranchero/Deep Creek Official Community Plan Bylaw No. 750

Designation: AG-Agriculture

**3.4 Agriculture**

This land use designation applies to lands that are used and valued for agriculture. All lands within the ALR are in this land use designation. The objectives and policies relating to these matters are intended to serve as indicators of community preference and assist senior levels of government in planning and decision making.

Objective 1: Maintain the agricultural land base and protect it from activities that may diminish agricultural value and potential.

Objective 3. Support development that is compatible with the Community Values and Development Criteria.

Policy 1: Lands within the Agriculture designation are shown as "AG" on Schedule 'B'.

Policy 3: For lands within the ALR, the regulations and policies of the Agricultural Land Commission (ALC) apply. Approval must first be obtained from the ALC where land in the ALR is proposed for subdivision, a second dwelling unit, or a non-farm use.

Policy 6: One dwelling unit shall be permitted per lot and one secondary dwelling unit may be subject to zoning restrictions. The secondary dwelling unit will be subject to special provisions, including:

(a) setbacks from buildings and property lines;

- (b) the provision of required parking and access; and
- (c) the provision of adequate servicing that meets Provincial water and sewer regulations.

### Section 3 Natural Resource Management

#### 5.1 Agriculture

Goal: To protect agricultural land both within and outside the ALR for agricultural based activities.

Policy 1: This Plan supports the Agricultural Land Commission's mandate of preserving and encouraging the development of lands for agricultural purposes.

Policy 3: The CSRD discourages encroachment and fragmentation of farmland by non-farm related uses.

### **Ranchero/Deep Creek Land Use Bylaw No. 2100**

Land Use Designation: R – Rural

#### 2.4.1 Permitted Uses

Agriculture, guest ranch, silviculture, wood harvesting, mining, gravel extraction, trapping, aquaculture, watershed, kennel, airfield, airstrip, golf course, public use, single family dwelling, home occupation, accessory use.

#### 2.4.2 Regulations

Maximum number of single family dwellings per parcel is 1; the minimum parcel area is 60 ha. Onsite sewage disposal and water are the servicing standards.

#### 2.3.13 Provision of a Second Dwelling

Notwithstanding any other provisions of this bylaw, a second dwelling is permitted on parcels in excess of 1 hectare within areas zoned as R, RH, and RR, provided the following criteria are met:

- .1 The second dwelling shall be occupied by a full time employs engaged in agriculture on the parcel; or
- .2 The second dwelling shall be occupied by a relative who either receives care and maintenance from or administers care and maintenance to the occupants of the principal dwelling;
- .3 Where a second dwelling is provided in accordance with Section 2.3.13.2, a physician shall certify that such care and maintenance is necessary;
- .4 The second dwelling shall be sited not less than:
  - 4 metres from any property line
  - 5 metres from the principal dwelling or any building accessory thereto;
- .5 The second dwelling shall not be anchored to a permanent foundation;
- .6 The owner of the said land shall execute a covenant under Section 215 (now 219) of the Land Title Act in favour of the Regional District indicating that the second dwelling will be removed upon termination of the conditions specified in Section 2.3.13.1 and 2.3.13.2.

#### 2.3.10 Home Occupations

Home occupations shall comply with all of the following regulations:

- .1 The home occupation shall be carried out accessory to and on the same parcel as the dwelling to which it relates.
- .2 The home occupation shall not produce, discharge or emit: smoke (except smoke produced from the heating of the home occupation space), dust, litter, vibrations; odorous, toxic or noxious matter or vapours; heat; glare; radiation; electrical or television interference; or sufficient noise, congestion or traffic to constitute a nuisance offensive to the community.
- .3 Outdoor storage and processing associated with the home occupation must be completely screened from adjoining properties and highways at a minimum height of 1.8 m (5.91 ft), with the exception of daycares and parking.
- .4 The area used for the display of new goods for sale not produced on-site is limited to 25 percent of the area used for the home occupation.
- .5 Total signage (excluding framing) used for the purpose of advertising the home occupation on each parcel shall not exceed 3 m<sup>2</sup> (32.29 ft<sup>2</sup>) in area. Signs shall have a minimum setback of 1 m (3.28 ft) from parcel lines. Where the signs are located within 5 m (16.4 ft.) of a highway, each sign shall not exceed 2 m<sup>2</sup> (21.53 ft<sup>2</sup>) in area.
- .6 All parking associated with the home occupation shall be on-site. One parking space shall be provided:
  - (a) per 100 m<sup>2</sup> (1,076.39 ft<sup>2</sup>) of area used for the home occupation (plus one parking space for any fraction of area greater than 100 m<sup>2</sup> (1,076.39 ft<sup>2</sup>), with the exception of daycares;
  - (b) per non-resident employee;
  - (c) per let bedroom in the case of a bed & breakfast;
  - (d) in compliance with dimensions and access requirements as set out in Schedule B.
- .7 Where the parcel is less than 0.4 ha (0.99 ac):
  - (a) no more than 2 persons shall be employed in a home occupation who are not residents of the dwelling in which the home occupation is taking place;
  - (b) the maximum area of all home occupation uses on a parcel is 275 m<sup>2</sup> (2,960 ft<sup>2</sup>) on lands outside the agricultural land reserve and 100 m<sup>2</sup> (1,076 ft<sup>2</sup>) on lands inside the agricultural land reserve;
  - (c) if the home occupation is a bed & breakfast, the bed & breakfast is limited to 3 bedrooms for let.
- .8 Where the parcel is 0.4 ha (0.99 ac) or larger:
  - (a) no more than 4 persons shall be employed in a home occupation who are not residents of the dwelling in which the home occupation is taking place;
  - (b) the maximum area of all home occupation uses on a parcel is 150 m<sup>2</sup> (1,615 ft<sup>2</sup>) on lands inside the agricultural land reserve;
  - (c) if the home occupation is a bed & breakfast, the bed & breakfast is limited to 6 bedrooms for let on lands outside the agricultural land reserve and 4 bedrooms for let on lands inside the agricultural land reserve.

**Ranchero/Deep Creek Zoning Bylaw No. 751 – Under preparation (at First Reading)**

Proposed Zone: AG1 – Agriculture 1

### 5.6.2 Principal Uses

Agriculture, agroforestry, single detached dwelling, timber harvesting.

### 5.6.3 Secondary Uses

Accessory use, agri-tourism, guest ranch, bed and breakfast, home occupation (subject to ALC regulations), secondary dwelling unit (subject to Section 3.7 of this Bylaw and ALC regulations).

\*Section 3.7 of the proposed bylaw is currently under revision. However, the intent of this section will be to permit secondary dwelling units in accordance with ALC regulations.

## **Agricultural Land Reserve Use, Subdivision and Procedures Regulation**

3(1) The following non-farm uses are permitted in an agricultural land reserve unless otherwise

prohibited by a local government bylaw or, for lands located in an agricultural land reserve

that are treaty settlement lands, by a law of the applicable treaty first nation government:

(b) for a parcel located in Zone 1,

(i) one secondary suite in a single family dwelling, and

(ii) either

(A) one manufactured home, up to 9 m in width, for use by a member of the owner's immediate family, or

(B) accommodation that is constructed above an existing building on the farm and that has only a single level;

1(1) In this regulation:

"immediate family" means, with respect to an owner, the owner's

(a) parents, grandparents and great grandparents.

(b) spouse, parents of spouse and stepparents of spouse,

(c) brothers and sisters, and

(d) children or stepchildren, grandchildren and greatgrandchildren;

"farm" means an occupation or use, for farm purposes, of one or several parcels of land or tenured areas of Crown land.

## **FINANCIAL:**

This application is the result of bylaw enforcement and has identified a use on the property that is not in compliance with the Ranchero/Deep Creek Zoning Bylaw No. 2100. If the ALC does not approve the proposed non-farm use this file would be referred back to bylaw enforcement for follow up.

## **KEY ISSUES/CONCEPTS:**

This application is the result of a bylaw enforcement complaint. The owner advises that he consulted the CSRD website for information prior to constructing the second residence on the property and was under the impression that the use was permitted. However, he had inadvertently been reading an early draft of the Ranchero/Deep Creek Zoning Bylaw No. 751 which is currently under development and is only at first reading.

The property was purchased by the current owners in 2012. At that time the old farmhouse was the only house on the property. The owners' original plan was to construct a new residence for themselves and then tear down the older home. They constructed their primary residence in 2013. After that time they changed their plan and decided to add onto the old farmhouse to create the secondary residence for their parents. The owner is a builder and was able to customize the home as a handicapped residence for the care of his father who suffers from Parkinson's disease.

Ranchero/Deep Creek Land Use Bylaw No. 2100 permits one residence per property that is zoned R-Rural. It also permits a secondary residence for the care and maintenance of a family member provided that the residence is not on a permanent foundation, a doctor has certified that it is necessary, the building meets specified setbacks, and the owner has registered a Section 219 covenant on title requiring the residence to be removed when it is no longer required for the care and maintenance of a family member. The owner has provided a letter from his father's neurologist regarding the need for care. He has also offered to register a covenant on title regarding the use of the second residence by his parents until such time as they pass, or require a higher level of care than can be provided at home.

It is also noted that Policy 6 of Section 3.4 Agriculture of the Ranchero/Deep Creek Official Community Plan Bylaw No. 750 supports a secondary residence subject to adequate servicing, parking and setbacks. The secondary residence is serviced by an approved septic system and the owner states that the well has been inspected by Interior Health. There is adequate parking on site and the building is sited in compliance with required setbacks.

If the ALC approves this application, CSRD bylaw requirements include:

- Execution of a covenant under Section 219 of the Land Title Act in favour of the Regional District indicating that the second dwelling will be removed upon termination of the conditions for which it is required, pursuant to Section 2.3.13 of Ranchero/deep Creek Land Use Bylaw No. 2100;
- A Development Variance Permit to allow the secondary dwelling to be on a permanent foundation. Section 2.3.13.5 Provisions for Secondary Residences of Ranchero/Deep Creek Land Use Bylaw No. 2100 states that the second dwelling shall not be anchored to a permanent foundation.

## **SUMMARY:**

Development Services is recommending that application LC2521D, proposing a permanent secondary residence as a non-farm use in the ALR, be sent to the ALC recommending approval, for the following reasons:



- The secondary residence is providing an opportunity for the family to provide care and maintenance for the owner's father which is a permitted use in the Ranchero/Deep Creek Land Use Bylaw No. 2100 subject to certain conditions;
- The secondary residence is sited in an area of the property that is near the road and other farm buildings, therefore not impeding the use of the rest of the parcel for farm purposes;
- The secondary residence is connected to an approved onsite sewage disposal system;
- The Ranchero/Deep Creek OCP policies supports secondary residences as a permitted use; and
- The Electoral Area 'D' APC recommended approval of the secondary residence subject to a covenant being registered on title requiring removal or conversion of the residence to a non-habitable building when it is no longer required by the owner's parents.

**IMPLEMENTATION:**

If the ALC allows the proposed non-farm use, the owner would need to have a Section 219 covenant prepared by their solicitor for review of CSRD staff which would state that the secondary residence must be removed when it is no longer required by the owner's parents. Staff suggest the covenant could also include the option to convert the house to a non-habitable building.

The owner would also need to apply and receive approval for a Development Variance Permit to allow the secondary residence to be located on a permanent foundation.

**COMMUNICATIONS:**

This application was referred to the Electoral Area D Advisory Planning Commission (APC) for their review and input. The following recommendation was provided by the APC with regard to this application:

*"Moved by Kerry Orchard and seconded by Barry Wilson that the APC D recommend the application for a second residence with the requirement that a restrictive covenant or other instrument be placed on the title of the property requiring that the second residence be decommissioned when the parents are no longer residing in the second residence.*

*Motion carried unanimously."*

The recommendation of the Board will be forwarded to the ALC for consideration during its review of the application. There is no public involvement in applications to the ALC.

**DESIRED OUTCOMES:**

That the Board endorse the staff recommendation.

**BOARD'S OPTIONS:**

1. *Endorse the Recommendation. The application will be sent to the Agricultural Land Commission with a recommendation of approval.*

2. *Deny the Recommendation. The application will be sent to the Agricultural Land Commission with a recommendation of refusal.*
3. *Defer.*
4. *Any other action deemed appropriate by the Board.*

**LIST NAME OF REPORT(S) / DOCUMENT(S) AVAILABLE FROM STAFF:**

1. Agricultural Land Reserve Use, Subdivision and Procedures Regulation, BC Reg. 171/2002
2. Ranchero/Deep Creek Land Use Bylaw No. 2100
3. Ranchero/Deep Creek Official Community Plan Bylaw No. 750

**Report Approval Details**

Document Title:	2017-06-15_Board_DS_LC2521D_Baer.docx
Attachments:	<ul style="list-style-type: none"><li>- LC2521D - Maps and Plans.pdf</li><li>- LC2521D - Photos.pdf</li><li>- Letter from Jordan and Heidi Baer, dated May 5, 2016.pdf</li><li>- Letter from Dr. Jennifer Takahashi, dated June 9, 2016.pdf</li></ul>
Final Approval Date:	Jun 7, 2017

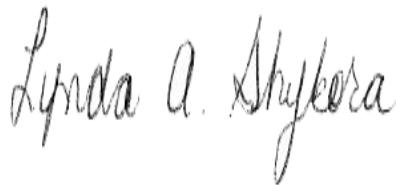
This report and all of its attachments were approved and signed as outlined below:



**Corey Paiement - Jun 2, 2017 - 4:06 PM**



**Gerald Christie - Jun 5, 2017 - 7:42 AM**



**Lynda Shykora - Jun 7, 2017 - 10:06 AM**



**Charles Hamilton - Jun 7, 2017 - 10:29 AM**