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REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE MEETING OF TUESDAY, AUGUST 20, 2024

SUBJECT **Non-Adhering Residential Use within the Agricultural Land Reserve
Application for Parcel A (DD 80053I) of Section 86, Sooke District – 315
Becher Bay Road**

ISSUE SUMMARY

To consider an application for a non-adhering residential use for the purpose of constructing a detached secondary suite (carriage house) and an accessory building (garage) on land in the Agricultural Land Reserve (ALR).

BACKGROUND

The 4 ha parcel is located at 315 Becher Bay Road and is in the Agricultural Land Reserve (ALR) (Appendices A and B), but not currently used for farming. The property is designated Agriculture in the Official Community Plan (OCP) for East Sooke, Bylaw No. 4000, and is zoned Agricultural (AG) in the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040. The parcel is adjacent to AG zoned parcels to the north and south and backs on to Becher Bay to the east (Appendix C).

The applicant recently commenced construction of a 186 m² carriage house that includes a 103 m² detached accessory suite (Appendix D), and an additional 114 m² steel frame garage without a building permit (Appendix E). CRD Building Permit records show that a 290 m² single-family dwelling was constructed in 1977. ALR regulations were updated in 2021 to allow ALR parcels of 40 ha or less one residence up to 500 m² and one additional residence up to 90 m². Since the floor area of the proposed residence is greater than 90 m², it is considered a non-adhering residential use and must be approved by the Agricultural Land Commission (ALC). Since the proposed garage is not for farm use, it is also considered a non-adhering residential use and must be approved by the ALC. In order to obtain a building permit and complete construction, approval for the non-adhering residential use and approval for variances to increase the allowable floor area and height of a detached accessory suite are required.

The LUC reviewed this proposal at its meeting on June 18, 2024, and directed staff to refer the application to the Juan de Fuca Agricultural Advisory Planning Commission (AAPC) for comment. The AAPC reviewed the application on July 23, 2024.

ALTERNATIVES

Alternative 1

The Land Use Committee recommends to the Capital Regional District Board:

That staff be directed to forward comments from the Juan de Fuca Agricultural Advisory Planning Commission and the Juan de Fuca Land Use Committee to the Agricultural Land Commission for the Land Commission's consideration of the non-adhering residential use application for Parcel A (DD 80053I) of Section 86, Sooke District, in accordance with Section 34(4) of the *Agricultural Land Commission Act*.

Alternative 2

That the application be forwarded to the ALC with a resolution of support.

Alternative 3

That the application be denied and not be forwarded to the ALC.

Alternative 4

That the application be forwarded to the ALC with no comment.

IMPLICATIONS

Legislative Implications

Section 20.1 of the *Agricultural Land Commission Act* (ALC Act) limits residential use of agricultural land to one residence per parcel and a total floor area of 500 m² or less. Section 34.3 of the *Agricultural Land Reserve Use Regulation* allows for an additional residence to be constructed if conditions in the regulation are met. If a parcel is 40 ha or less, the secondary residence must have a floor area of 90 m² or less. An owner may apply to the ALC for a non-adhering residential use for permission to alter the condition limiting the size of an additional residence under Section 25 of the *ALC Act*. In making a determination with respect to an application for a non-adhering residential use, the ALC will consider the prescribed criteria, if any, and must not grant permission for an additional residence unless the additional residence is necessary for a farm use pursuant to section 25(1.1) of the *ALC Act*.

Section 34(4) of the *ALC Act* requires that local government review applications and, subject to subsection (5), forward the application to the ALC together with comments and recommendations in respect of the application. If the application applies to land zoned by bylaw to permit farm use, or requires an amendment to an official community plan or zoning bylaw, the local government may exercise its authority to forward the application to the ALC. If an application is not forwarded, it proceeds no further and is not considered by the ALC.

Public Consultation Implications

There are no public notification requirements for non-adhering residential use applications established by the ALC. Applications must be filed with local government and public comments may be collected. Notices of intent outlining the proposal were sent to property owners within 500 m of the subject property advising of the LUC meetings held on June 18 and August 20, 2024, as well as of the AAPC meeting held on July 23, 2024.

The AAPC considered the application at its meeting on July 23, 2024, and passed the following resolution (Appendix F):

MOVED by Teresa Willman, **SECONDED** by Margot Swinburnson that the Juan de Fuca Agricultural Advisory Planning Commission recommends to the Juan de Fuca Land Use Committee that Non-Adhering Residential Use within the Agricultural Land Reserve Application AG000085 for Parcel A (DD 80053I) of Section 86, Sooke District, be forwarded to the Agricultural Land Commission with comment that the applicant intends to use the land and garage for farm use in future and that the two-storey carriage house has a smaller building footprint on the land than a detached accessory suite with a side-entry garage.

CARRIED

As part of its review, the AAPC considered the surrounding context within which the property is located and noted that the subject property use and buildings are in keeping with other ALR properties along Becher Bay Road, and that the *ALC Act* allows for consideration of an additional residence.

Land Use Implications

There is a 290 m² single-family dwelling and a 14 m² wellhouse situated in the central eastern portion of the property. The detached accessory suite (carriage house) is proposed to be sited to the northwest of the dwelling and the accessory building (garage) is proposed to be sited to the southwest of the dwelling. All structures will be accessed from a single driveway access from Becher Bay Road to the west (Appendix G). The parcel is designated as several Development Permit Areas by the East Sooke OCP, Bylaw No. 4000. The applicable Development Permit guidelines for all recent non-farm use land clearing on the parcel are being addressed under Development Permit application DP000416.

The applicant has provided a proposal outlining the rationale for the application (Appendix H) that indicates the siting for the proposed structures were chosen for its accessibility from the existing driveway and house. Each storey of the carriage house is 93 m²; however, an additional 10 m² on the main floor is designated as an entrance and laundry area for the suite, which increases the floor area to approximately 103 m².

The East Sooke OCP, Bylaw No. 4000, designates land in the ALR as Agriculture to protect these lands for current and future agricultural activities. This designation supports farming activities and other land uses as permitted by the ALC. Policy 464F states that the *ALC Act and Regulations* will be taken into account in the review of any land use or building application on lands in the ALR. Policy 464G recommends that buildings be sited on less productive lands and that buildings be clustered to maximize the area available for agriculture. Policy 464H supports site specific zoning to allow multiple residences on Agriculture parcels to make farming more affordable, subject to appropriate controls being in place to ensure long-term farming use and approval of the ALC.

The land is zoned Agricultural (AG) under the Juan de Fuca Land Use Bylaw No. 2040. The AG zone permits multiple dwelling units including either a secondary suite or a detached accessory suite subject to approval from the ALC. Section 20.1 of the *ALC Act* was updated in 2019 and now limits parcels to one residence with a total floor area of 500 m² or less. Section 34.3 of the *Agricultural Land Reserve Use Regulation* was updated in 2021 and allows for an additional residence of up to 90 m² to be constructed on parcels less than 40 ha. In order to construct an additional residence with a floor area greater than 90 m², approval for a non-adhering residential use is required from the ALC. Approval is required from the LUC and CRD Board to vary Section 4.20 (f) of the JdF Land Use Bylaw No. 2040, which specifies that the maximum floor area of a detached accessory suite is 90 m². The request to increase the maximum allowable floor area of a detached accessory suite from 90 m² to 103 m² is being considered under concurrent Development Variance Permit application VA000162. Requests to increase the maximum height permitted for a detached accessory suite from 7 m to 8.37 m and to increase the total maximum accessory building floor area from 250 m² to 314 m² are also being considered under the variance application.

The Ministry of Agriculture's 2013 *Guide for Bylaw Development in Farming Areas* includes criteria for regulating residential uses in the ALR. Options for reducing impacts of residential uses on ALR land include restricting the overall residential footprint, limiting the building size, and regulating the siting within a maximum setback from the roadway. Should the application be approved, the proposed detached accessory suite (carriage house) will be required to meet the siting specifications of the AG zone and Detached Accessory Suite regulations, unless otherwise varied under VA000162. Staff note that the garage would meet the side yard setback and height requirements specified by the AG zone for agricultural buildings should it be used for farm purposes in the future.

CONCLUSION

An application has been received for the non-adhering residential use of land located within the Agricultural Land Reserve. The owners propose to complete a detached accessory suite (carriage house) with a floor area that exceeds the allowance provided by the *ALR Use Regulation*, and an accessory building (garage) for accessory residential use. In order to proceed as proposed, the Agricultural Land Commission must approve the uses, which requires a resolution from the CRD Board. Staff recommend that the AAPC's and the LUC's comments be forwarded to the ALC for the Land Commission's consideration.

RECOMMENDATION

The Land Use Committee recommends to the Capital Regional District Board:
That staff be directed to forward comments from the Juan de Fuca Agricultural Advisory Planning Commission and the Juan de Fuca Land Use Committee to the Agricultural Land Commission for the Land Commission's consideration of the non-adhering residential use application for Parcel A (DD 800531) of Section 86, Sooke District, in accordance with Section 34(4) of the *Agricultural Land Commission Act*.

Submitted by:	Iain Lawrence, MCIP, RPP, Senior Manager, Juan de Fuca Local Area Services
Concurrence:	Shawn Carby, CD, MAL, Acting General Manager, Planning & Protective Services
Concurrence:	Shawn Carby, CD, MAL, Chief Administrative Officer

ATTACHMENTS

Appendix A: Subject Property Map
Appendix B: Agricultural Land Reserve Map
Appendix C: Zoning Map
Appendix D: Proposed Detached Accessory Suite (Carraige House)
Appendix E: Proposed Accessory Building (Garage)
Appendix F: JdF AAPC Minutes
Appendix G: Site Plan
Appendix H: Proposal