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**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE  
MEETING OF TUESDAY, NOVEMBER 17, 2020**

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**SUBJECT**      **Non-Farm Use Agricultural Land Reserve Application for Section 81, Sooke District – East Sooke Regional Park**

**ISSUE SUMMARY**

An application has been received for non-farm use of land in the Agricultural Land Reserve for the purpose of expanding a parking lot and replacing a picnic shelter in East Sooke Regional Park.

**BACKGROUND**

The approximately 63 hectare (ha) subject property was transferred to the Capital Regional District (CRD) from the Crown in 1972 and incorporated into East Sooke Regional Park (Appendix A). A portion of the property, referred to as Aylard Farm, is within the Agricultural Land Reserve (ALR). The property is accessed from Becher Bay Road and includes a 74-space parking-lot, washroom building, picnic shelter and trail facilities (Appendix B). The property is adjacent to non-ALR Agricultural (AG) zoned land to the north, Becher Bay to the east, and park parcels to the west and south.

The *Agricultural Land Commission Act (ALC Act)* and regulations establish measures to ensure the preservation of agricultural land. Local government bylaws must be consistent with this legislation. The East Sooke Official Community Plan (OCP), Bylaw No. 4000, designates the property as Park provided that only passive recreational uses that do not preclude future agricultural use are supported on the portion of the parcel within the ALR. The portion of the property within the ALR is zoned Agricultural (AG) in the Juan de Fuca Land Use Bylaw No. 2040 and the remainder of the parcel is zoned Public Recreation (P-1); however, parks, trails and related accessory buildings and structures are permitted uses in all zones as outlined in Part 1, Section 4.15 of Bylaw No. 2040.

CRD Regional Parks has identified a need to expand the existing parking lot to accommodate 101 vehicle spaces, and to construct a new 36 m<sup>2</sup> picnic shelter within the ALR in East Sooke Regional Park. The proposed work will also include deposit of approximately 840 m<sup>3</sup> of clean fill. Development of park uses and infrastructure in the ALR requires an application for non-farm use, review by local government and approval by the Agricultural Land Commission (ALC). Therefore, CRD Regional Parks has submitted a non-farm use application for the proposed work (Appendix B). As the CRD is the local government authority for East Sooke in the Juan de Fuca Electoral Area, the Juan de Fuca Land Use Committee will consider the application and forward a recommendation to the CRD Board. The Board may determine whether to advance the application to the ALC for review.

**ALTERNATIVES**

*Alternative 1*

The Juan de Fuca Land Use Committee recommends to the Capital Regional District Board: That the non-farm use and soil deposit within the Agricultural Land Reserve application AG000081 for expansion of a parking lot and construction of a picnic shelter on Section 81, Sooke District, be supported and forwarded to the Agricultural Land Commission along with any public comments received.

*Alternative 2*

The Juan de Fuca Land Use Committee recommends to the Capital Regional District Board: That the non-farm use and soil deposit within the Agricultural Land Reserve application for construction of a parking lot and picnic shelter on Section 81, Sooke District, be referred to the East Sooke Advisory Planning Commission for comment.

*Alternative 3*

That the application not be forwarded to the Agricultural Land Commission.

## **IMPLICATIONS**

### *Legislative*

Section 20(2) of the *ALC Act* requires that an application be made for permission for a non-farm use of agricultural land. Section 20.3 of the *ALC Act* restricts the removal and deposit of soil or fill on agricultural land unless done in accordance with the regulations. A non-farm use application may not proceed unless authorized by a resolution of the local government if the application applies to land that is zoned by bylaw to permit farm use, as outlined in Section 25 of the *ALC Act*. Section 34.1 of the *ALC Act* requires that local government review applications and, subject to subsection (2), forward to the ALC the application together with comments and recommendations in respect of the application. If an application is not forwarded, it proceeds no further and is not considered by the ALC.

Bylaw No. 3885, the Juan de Fuca Development Fees and Procedures Bylaw No. 3, 2018, and the proposed Juan de Fuca Agricultural Land Reserve Application Policy BRD05 (the “Policy”) establish procedures for considering ALR applications.

The Juan de Fuca Soil Removal or Deposit Bylaw No. 3941 regulates the removal and deposit of soil, including sand, gravel and rock, within the electoral area. Section 8.0(c) of the Bylaw exempts the deposit of soil required for the construction or repair of works, roads, highways or services by or on behalf of the CRD and the deposit is onto a parcel owned or leased by the CRD.

### *Public Consultation*

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.

The Juan de Fuca Agricultural Land Reserve Application Policy BRD05 was recommended for approval by the Land Use Committee and will be considered by the CRD Board at its November meeting. The policy directs staff to notify property owners and occupants within 500 metres of the subject property the opportunity to provide comment on an application. The CRD Board may consider referral of ALR applications to either the JdF Agricultural Advisory Planning Commission (AAPC) or to a local advisory planning commission (APC) for comment.

The APCs were established under Bylaw Nos. 3517 and 2945 to make recommendations to the Land Use Committee and CRD Board on land use planning matters referred to them. If the Board determines there is public interest in holding an APC meeting based on the public notification, staff have provided an alternative recommendation to refer the application to the East Sooke APC for review, as the AAPC does not have active membership.

### *Land Use*

East Sooke Regional Park was established by the CRD in 1972 and a portion of the land, known as Aylard Farm, is within the ALR and subject to the *ALC Act* and regulations. The land is used for passive park and conservation purposes with limited park infrastructure including a parking lot, washroom, signage, trails, open field, picnic tables and a picnic shelter. There is an orchard but little evidence of historical agricultural use remains. The CRD Board initiated a process to develop a management plan for the park in spring 2020 and this process is underway. CRD Regional Parks has identified the need to complete two park improvement projects in 2021: expansion of a parking lot and replacement of a picnic shelter, both within the ALR portion of the park. An application for non-farm use has been submitted for these projects comprising approximately 0.2 hectares of ALR land (Appendix B).

### Parking Lot

The existing 74 space, 2,931 m<sup>2</sup> paved parking lot is proposed to be expanded and reconfigured to create a 101 space, 4,935 m<sup>2</sup> parking lot. The expansion is proposed to accommodate increased visitor use and to facilitate improved emergency vehicle access. The proposed parking lot design encompasses a similar footprint as the existing parking lot and adjacent field area used for overflow parking. The proposal utilizes an area that is already disturbed by existing parking uses, rather than encroaching into natural forested areas. The parking surface material for the new parking area has not been finalized, but may include gravel or pavement. The ALR boundary runs through the parking lot with 31 spaces proposed outside the ALR and 70 in the ALR.

The proposed excavation of the parking lot will involve relocating approximately 800 m<sup>3</sup> of existing soil to a location elsewhere on site within the ALR. Approximately 600 m<sup>3</sup> of gravel subbase will then be placed at 300 mm deep, with 200 m<sup>3</sup> of 19 mm minus gravel placed on top at 100 mm deep.

#### Picnic Shelter

There is an existing picnic shelter on site that is at the end of its serviceable life and is proposed to be replaced to continue serving the public use of the park. The proposal is to construct a new 36 m<sup>2</sup> shelter in an adjacent location to improve the visitor use experience and site design, and to reduce the risk presented by danger trees and foreshore erosion. The existing earth-floor picnic shelter will be demolished, concrete blocks removed, and the site restored and replanted with native grass seed. The proposed siting for the new picnic shelter is on a mowed area of meadow used as leisure space by park visitors.

Construction of the picnic shelter will involve a 100 mm thick concrete slab floor set on 650 mm deep subbase gravel. A 51 m<sup>2</sup> area will be excavated to a depth of 0.75 m for a total excavation and replacement with clean fill of approximately 40 m<sup>3</sup>.

#### CRD Bylaws

The East Sooke OCP designates the subject property as Park and includes policies that support protection of the long-term potential of Aylard Farm for farm use. Section 424(S) of Bylaw No. 4000 states that only passive recreational uses that do not involve the alteration of land or farm uses are supported on lands in the ALR in East Sooke Regional Park known as Aylard Farm. The proposed non-farm use comprises 0.2 ha within the ALR portion of the subject property. The proposed development is not anticipated to detract from future agricultural use of this land due to the small footprint and utilization of a previously disturbed parking area.

The Juan de Fuca Soil Removal or Deposit Bylaw No. 3941 does not apply to the movement of soil within the boundary of a parcel, and the proposed deposit of fill for construction of the parking lot and picnic shelter is exempt from a permit under section 8.1(c) of the bylaw. The proposed works are located outside any development permit areas (DPAs) designated by Bylaw No. 4000 on the subject property; therefore a development permit is not required. A building permit will be required for demolition and replacement of the picnic shelter.

The proposal is consistent with the Park designation in the OCP and the long-term use of the land as a regional park. Staff recommend that, subject to public notification, a resolution of support be forwarded to the Agricultural Land Commission along with copies of any comments received.

#### **CONCLUSION**

An application has been received for the non-farm use of a portion of East Sooke Regional Park located within the Agricultural Land Reserve, for the purpose of expanding a parking lot and replacement of a picnic shelter. The proposed work will also include deposit of approximately 840 m<sup>3</sup> of fill. A non-farm use application may not proceed unless authorized by a resolution of the local government. Staff have conducted public notification of the application as outlined in the Juan de Fuca Agricultural Land Reserve Application Policy BRD05. Subject to public notification, staff recommend that a resolution of support be forwarded to the Agricultural Land Commission along with copies of any public comments received.

#### **RECOMMENDATION**

The Juan de Fuca Land Use Committee recommends to the Capital Regional District Board:  
That the non-farm use and soil deposit within the Agricultural Land Reserve application AG000081 for expansion of a parking lot and construction of a picnic shelter on Section 81, Sooke District, be supported and forwarded to the Agricultural Land Commission along with any public comments received.

Submitted by:	Iain Lawrence, RPP, MCIP, Manager, Juan de Fuca Community Planning
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning & Protective Services
Concurrence:	Robert Lapham, RPP, MCIP, Chief Administrative Officer

#### **ATTACHMENTS**

Appendix A: Subject Property

Appendix B: Non-Farm Use Application