



**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, NOVEMBER 21, 2017**

SUBJECT **Addition of Agricultural Uses to the Forestry Zone**

ISSUE

To consider an amendment to the Juan de Fuca Land Use Bylaw, 1992, Bylaw 2040, to add Agriculture as a permitted use in the Forestry (AF) zone.

BACKGROUND

The Forestry (AF) zone (Appendix A) was established upon adoption of the Juan de Fuca Land Use Bylaw, Bylaw No. 2040, in 1992. Amendments to the AF zone have since been made by Bylaw Nos. 3705 and 3849 to expand the residential uses permitted, including the provision for suites and home based businesses.

Staff have recently received several inquiries into AF zoned properties from prospective buyers and current land owners that have expressed interest in starting small agricultural operations. The four hectare minimum parcel size and typically deforested landscapes are appealing to property owners interested in hobby farming and small-scale agriculture. The AF zone, however, does not currently permit a full range of agricultural uses. Staff have prepared proposed Bylaw No. 4179 to amend the AF zone to add *agriculture* as a permitted use on land that has been removed from Private Managed Forest Land (PMFL) (Appendix B). The proposed Bylaw as referred to agencies is included in Appendix C.

The Land Use Committee recommended referral of the proposed bylaw to appropriate CRD departments and to the following agencies at their meeting of June 20, 2017:

Agricultural Advisory Planning Commission	Ministry of Transportation and Infrastructure
Cowichan Valley Regional District	Otter Point Advisory Planning Commission
District of Sooke	Pacheedaht First Nation
Managed Forest Council	Scia'new First Nation
Ministry of Agriculture	Shirley/Jordan River Advisory Planning Commission
Ministry of Forests, Lands and Natural Resource Operations	T'Sou-ke First Nation

Comments were received from Cowichan Valley Regional District, District of Sooke, Ministry of Forests, Lands and Natural Resource Operations, Ministry of Transportation and Infrastructure, CRD Bylaw and Animal Care Services, and CRD Regional and Strategic Planning (Appendix D). The proposed bylaw was considered by the Otter Point Advisory Planning Commission on July 17, 2017 (Appendix E) and by the Shirley/Jordan River Advisory Planning Commission on August 2, 2017 (Appendix F). Quorum requirements for the Agricultural Advisory Planning Commission meeting, scheduled for August 1, 2017, were not met.

ALTERNATIVES

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

1. a) That the referral of proposed Bylaw No. 4179 directed by the Juan de Fuca Land Use Committee to the Agricultural Advisory Planning Commission, Cowichan Valley Regional District, District of Sooke, Managed Forest Council, Ministry of Agriculture, Ministry of Forests, Lands and Natural Resource Operations, Ministry of Transportation & Infrastructure, Otter Point Advisory Planning Commission, Pacheedaht First Nation, Scia'new First Nation, Shirley/Jordan River Advisory Planning Commission, T'Sou-ke First Nation, and appropriate CRD departments be approved and the comments be received;
- b) That proposed Bylaw No. 4179, "Juan de Fuca Land Use Bylaw, 1992, Amendment Bylaw No. 130, 2017" be introduced and read a first time, read a second time; and
- c) That in accordance with the provisions of Section 469 of the *Local Government Act*, the Director for the Juan de Fuca Electoral Area, or Alternate Director, be delegated authority to hold a Public Hearing with respect to Bylaw No. 4179.

2. That the CRD Board not proceed with proposed Bylaw No. 4179.
3. That more information be provided by staff.

LEGISLATIVE IMPLICATIONS

Should the proposal proceed, a public hearing pursuant to Section 464 of the *Local Government Act (LGA)* will be required subsequent to the amendment passing second reading by the CRD Board. The hearing will be advertised in the local paper and on the CRD website. Since the bylaw applies to 10 or more parcels owned by 10 or more persons, notice is not required to be delivered to the owners and tenants subject to the bylaw alteration, pursuant to Section 466 of the *LGA*.

REFERRAL COMMENTS

Referrals were sent to 12 agencies on June 21, 2017.

Cowichan Valley Regional District - responded to advise that their interests were unaffected by the proposed rezoning.

CRD Bylaw and Animal Care Services - expressed no issues with the amendment.

Ministry of Transportation & Infrastructure – indicated no objections for approval but, as a condition, the Ministry requires that should any commercial enterprises form as a result of the changes, that the proper commercial access permits to Ministry owned roads and dedications be applied for as needed.

CRD Regional and Strategic Planning – reviewed the amendment against the 2003 Regional Growth Strategy (RGS), Bylaw No. 2952. Regional Planning staff advised that lands under the AF zone are designated as a Renewable Resource Lands Policy Area. Action 1.2(2) of the RGS is to ensure the long-term protection of this policy area to support forestry and silviculture on Private Managed Forest Lands (PMFL). Staff were of the opinion that agricultural uses could result in a move away from forestry and silviculture and change the landscape character. The change would provide an alternative rural working landscape function, but presents a policy change from supporting forestry uses.

It was recognized, however, that the addition of agriculture as a permitted use would allow an additional working landscape function should the lands be removed from PMFL.

Ministry of Forests, Lands and Natural Resource Operations – indicated that the Ministry's interests are affected by the proposal. The comments reiterated concerns raised during the Otter Point Official Community Plan review process regarding loss of forest land to residential use and agriculture, and the resultant permanent loss of greenspace. Crown land in Tree Farm License 61 and the timber supply area managed by BC Timber Sales in Otter Point and Shirley/Jordan River will continue to be managed for forest resources, but are not intended to offset loss of greenspace through conversion of AF zoned lands to agricultural use.

District of Sooke – indicated the municipality's interests are affected by the proposed bylaw amendment. The submission outlined that Sooke residents' stated though a recent Official Community Plan public engagement process that their number one goal is to protect the local environment and natural surroundings. There is concern that introducing farming into the surrounding landscape will permanently alter the ecosystem, and compromise watersheds and views, thereby impacting Sooke's local economy. Long-term trends towards converting forest land to agricultural use would reduce the local carbon sink and hasten climate change. Further, while the community of Sooke supports food security measures, much of the existing agricultural land is underutilized.

Otter Point APC – considered the bylaw amendment at their meeting of July 17, 2017. Comments included that the OCP supports protection and enhancement of forest lands, that there is already land with agricultural potential and introducing agriculture could destroy forestry lands by changing physical landscape and affecting wildlife. It was acknowledged, however, that the 4 ha minimum lot size and setbacks required for silviculture would make forestry activity difficult on smaller lots and that agricultural uses, such as the keeping of horses and other livestock, represented a reasonable alternative use of the land. The Otter Point APC recommended deleting *intensive agriculture* as a permitted use from the AF zone and adding *agriculture* as an accessory use to a one-family dwelling.

Shirley/Jordan River APC – considered the bylaw amendment at their meeting of August 2, 2017. Support for clarifying the definitions of *agriculture* and *intensive agriculture* was expressed. Comments included

that small-scale agriculture is less intrusive to neighbours, concern regarding limited enforcement resources, impacts on water resources, sewerage and wildlife. Support was expressed for addressing wilderness-agriculture interface issues, for conducting farm impact assessments, and for a broader review of agricultural regulations. The APC recommends that intensive agriculture be prohibited on AF zoned properties, that agriculture use be limited by agricultural units and be aligned with the policies in the CRD Regional Food and Agriculture Strategy (RFAS), and that agricultural operations comply with the *Water Sustainability Act*.

REGIONAL IMPLICATIONS

The RFAS, completed in 2016, was prepared in response to a high level of public interest and concern for food and agricultural production across the region. The purpose of the RFAS is to guide action and foster leadership in regional food and agriculture. One recommendation in the RFAS, especially applicable to the Juan de Fuca area, is to consider approaches to address existing and emerging regional wildlife and invasive species issues. The potential for wildlife conflict could increase with expanded agriculture uses in wilderness interface areas, such as AF zoned lands.

A local initiative is the formation of a group, called the “Coexisting with Carnivores Alliance”, of government and community members formed to provide strategic leadership, education and support to prevent human conflict with bears, cougars and wolves in the Capital Region. The group has recently obtained funding for development of a program to support coexistence between farmers and carnivores.

The Juan de Fuca Agricultural Inventory project, conducted in 2009 by the Ministry of Agriculture, surveyed existing agricultural land uses and land available for farming throughout the electoral area. The project was initiated partly in response to removal of land from Tree Farm Licenses and public interest in determining alternative uses for forestry land. The inventory report was completed in 2013 and was intended to inform an agricultural planning process for the Juan de Fuca. The recent Official Community Plan reviews for East Sooke and Shirley/Jordan River involved consideration of agricultural policies and, once adopted, would inform a comprehensive review of agricultural zoning for the Juan de Fuca. The proposed amendment to the AF zone is intended to facilitate agricultural activity based on recent public inquiries.

PLANNING ANALYSIS

Agency referral comments regarding the proposed addition of *agriculture* and *intensive agriculture* to the AF zone generally highlighted concerns regarding the conversion of forest resource lands to agricultural uses. Silviculture has historically been the predominant activity defining the rural working landscape character of land in the Juan de Fuca Electoral Area. After the Minister of Forests and Range removed land from Tree Farm License (TFL) #25 in 2007, much of that land was classified as Private Managed Forest Land (PMFL). Land in PMFL is a taxation assessment classification and imposes less onerous responsibilities for forest management than TFLs. Local government land use zoning applies to land removed from PMFL status.

The AF zone now covers approximately 2,300 hectares of land within the Otter Point and Shirley/Jordan River areas. The 4 ha minimum parcel size specified in the AF zone has led to instances of harvesting under PMFL regulations followed by subdivision for rural residential purposes in accordance with the AF zone and removal of land from PMFL. Examples of this have occurred in the vicinity of Fishboat Bay, Kirby Creek, Invermuir Road and Clark Road. Staff have received several inquiries from current and prospective land owners regarding the allowance of agricultural operations on smaller AF zoned lots.

Although the addition of agricultural uses to the AF zone would not preclude silviculture from occurring again in the future, several issues with permitting agriculture in forestry areas were highlighted by the referral agencies and should be acknowledged. Such issues relate to the permanent removal of available land for renewable forest generation; the social, economic and environmental benefits of greenspace; conflicts between agricultural uses and wildlife; spread of invasive species; agricultural use of water resources; and, proximity of intensive agricultural operations to residences. In order to address that concern, staff recommend that agriculture be included as a permitted use on AF zoned property, only where land has been removed from PMFL.

Staff have considered referral comments and have deleted *intensive agriculture* from proposed Bylaw No. 4179 to address many of the concerns raised in the referral process. The proposed addition of agriculture use aligns with the range of uses permitted in the Resource Lands (RL) zone in Bylaw No. 3602 and aligns with the general support of local agricultural production across the region. The complexity of

land use issues related to agricultural activities warrants a comprehensive review of the regulations in the Juan de Fuca Land Use Bylaw to update definitions, reflect current best practices and support the current interest in hobby farming. This overarching review is more appropriately conducted for all land use zones and not solely the amendment to the AF zone. Therefore, staff recommend that the referral comments be received and that the proposed Bylaw No. 4179 be given first and second readings and proceed to a public hearing.

CONCLUSION

The purpose of this zoning amendment is to allow agricultural uses on land that has been removed from PMFL and is zoned Forestry (AF) by the Juan de Fuca Land Use Bylaw No. 2040. Referral comments have been received and the proposed bylaw has been amended to address issues raised. Staff recommend proceeding with proposed Bylaw No. 4179 for first and second reading and proceeding to a public hearing.

RECOMMENDATIONS

That the Juan de Fuca Land Use Committee recommends to the Capital Regional District Board:

- a) That the referral of proposed Bylaw No. 4179 directed by the Juan de Fuca Land Use Committee to the Agricultural Advisory Planning Commission, Cowichan Valley Regional District, District of Sooke, Managed Forest Council, Ministry of Agriculture, Ministry of Forests, Lands and Natural Resource Operations, Ministry of Transportation & Infrastructure, Otter Point Advisory Planning Commission, Pacheedaht First Nation, Scia'new First Nation, Shirley/Jordan River Advisory Planning Commission, T'Sou-ke First Nation, and appropriate CRD departments be approved and the comments be received;
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- c) That in accordance with the provisions of Section 469 of the *Local Government Act*, the Director for the Juan de Fuca Electoral Area, or Alternate Director, be delegated authority to hold a Public Hearing with respect to Bylaw No. 4179.

Submitted by:	Emma Taylor, MA, MCIP, RPP, Planner
Concurrence:	Iain Lawrence, MCIP, RPP, Manager, Local Area Planning
Concurrence:	Kevin Lorette, P.Eng., MBA, General Manager, Planning & Protective Services
Concurrence:	Robert Lapham, MCIP, RPP, Chief Administrative Officer

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Appendices:

- A. Forestry (AF) zone
- B. Proposed Bylaw No. 4179 for 1st and 2nd reading
- C. Proposed Bylaw No. 4179, for referral
- D. Referral Comments
- E. Otter Point Advisory Planning Commission minutes
- F. Shirley/Jordan River Advisory Planning Commission minutes