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**REPORT TO THE CAPITAL REGIONAL DISTRICT BOARD
MEETING OF WEDNESDAY, MARCH 11, 2020**

SUBJECT **Application for a Non-Adhering Residential Use within the Agricultural Land Reserve for Lot 1, Section 55, Renfrew District, Plan VIP73142 – 2640 Sheringham Point Road**

ISSUE SUMMARY

To consider an application for a non-adhering residential use for the purpose of constructing a detached secondary suite within the Agricultural Land Reserve (ALR).

BACKGROUND

The 1 ha parcel is located at 2640 Sheringham Point Road and is in the Agricultural Land Reserve (ALR) (Appendices A and B). The property is designated 'Agriculture' in the Official Community Plan (OCP) for Shirley-Jordan River, Bylaw No. 4001, and the property is zoned Agricultural (AG) in the Juan de Fuca Land Use Bylaw, 1992, Bylaw No. 2040. The parcel is adjacent to AG and Rural A split zoned parcels to the east, north and west (Appendix C).

The subject property was created by subdivision for a relative pursuant to section 514 of the *Local Government Act (LGA)* in 2001 (S-06-01 and ALR-01-99). A single-family dwelling and garage were constructed in 2010; however, the permit for the garage was never completed. The property is not currently being used for farming.

The applicant is proposing to construct a detached accessory suite on the property (Appendix D). ALR regulations were updated in 2019 to restrict ALR parcels to one residence up to 500 m² and one secondary suite within the principal residence. The AG zone permits a detached accessory suite on ALR lands with the approval of the Agricultural Land Commission (ALC). This is in keeping with ALC regulations in that local government zoning that permits additional residential units is of no force and effect, except where an application for a non-adhering residential use is approved by the ALC.

At their meeting of February 18, 2020, the Juan de Fuca Land Use Committee considered the application and recommended that the application be forwarded to the ALC with no comment (Appendix F).

ALTERNATIVES

Alternative 1

That Non-Adhering Residential Use within the Agricultural Land Reserve Application AG000080, for Lot 1, Section 55, Renfrew District, Plan VIP73142, be forwarded to the Agricultural Land Commission with no comment.

Alternative 2

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

Alternative 3

That this report be referred back to staff for more information.

IMPLICATIONS

Legislative Implications

Recent amendments to the *Agricultural Land Commission Act (ALC Act)* and *Regulation* limit the residential use of agricultural land to one residence per parcel and a total floor area of 500 m² or less. These changes, which were implemented in 2019, were not well received by farmers and the owners

of land located in the ALR. In response, the Ministry of Agriculture and the ALC have initiated a review of the new regulations to consider allowing garden suites and residences for farm workers. This review is currently in the early stages and a date for amendments to the regulations is unknown. At the present time, an owner that wishes to build a new detached accessory suite must apply to the ALC for permission under Section 25 for a non-adhering residential use.

Section 34(4) of the *ALC Act* requires that local government review applications and, subject to subsection (5), forward to the ALC the application 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. The application was included on the Land Use Committee agenda which was posted to the CRD website. No comments from the public were received.

PLANNING ANALYSIS

There is a 112 m² single-family dwelling and a 33 m² garage on the property that are situated in the northeast portion of the property. There is a BC Hydro statutory right-of-way (SRW) bisecting the property extending north from Sheringham Point Road. The detached accessory suite is proposed to be sited in the westerly portion of the property (Appendix D). The applicant has provided a proposal outlining the rationale for the application (Appendix E) that indicates the proposed site was chosen for its accessibility from the existing driveway, to avoid the SRW, to accommodate well and septic areas, and to retain existing trees. The proposed residential footprint of the detached accessory suite is approximately 90 m², while the area dedicated to associated infrastructure, including parking and septic field, is approximately 78 m².

The Shirley-Jordan River OCP Bylaw No. 4001 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 444E 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 444F recommends that buildings be sited on less productive lands and that buildings be clustered to maximize the area available for agriculture. Policy 444G 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, and one secondary suite located in the principal residence. In order to construct a suite in an accessory building in accordance with the AG zone, approval for a non-adhering residential use is required from the ALC.

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. The proposed detached suite will be required to meet the siting specifications of the AG zone, as well as the Detached Accessory Suite regulations.

Staff note that the 1.0 ha property is not currently under agricultural production. In addition, the two immediately adjacent parcels are partially located in the ALR and split zoned Rural A and AG. The parcel to the east is 2.98 ha with 0.3 ha (10% of the parcel area) being located in the ALR, and parcel to the west is 2.95 ha with 0.3 ha (36% of the parcel area) in the ALR. Given the required setbacks

associated with agriculture and farm buildings, is unlikely that the ALR portion of those parcels will be brought under agricultural production.

In the case of the subject property, which was subdivided under the *LGA* provisions for subdivision to provide residence for a relative and approved by the ALC, the larger remainder lot is located outside the ALR, while the smaller parcel, which was intended to provide a residence for a relative, is located within the ALR. The ALC's policy on homesite severance applications is similar to that of the provisions for subdivision for a relative under the *LGA*. In fact, the ALC policy encourages local governments and approving officers to consider them in the same manner. It is not intended that parcels created under the homesite severance policy would be used for agricultural production. In light of the small size of the ALR on the neighbouring parcels and the fact that the subject property was created to provide residence for a relative, the proposed detached suite should have a negligible impact on agriculture productivity in the area.

Since the AG zone permits the proposed use where approved by the ALC, staff concur with the Land Use Committee's recommendation to forward the application to the Commission with no comment, and to defer to the ALC's review and decision.

CONCLUSION

An application has been received through the ALR application portal for a non-adhering residential use of land located within the ALR in Shirley for the purpose of constructing a detached accessory suite. The Juan de Fuca Land Use Committee considered the application on February 18, 2020, and recommended that ALR application AG000080 for a Non-Adhering Residential Use for Lot 1, Section 55, Renfrew District, Plan VIP73142, be forwarded to the Agricultural Land Commission with no comment.

RECOMMENDATION

That Non-Adhering Residential Use within the Agricultural Land Reserve Application AG000080, for Lot 1, Section 55, Renfrew District, Plan VIP73142, be forwarded to the Agricultural Land Commission with no comment.

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

ATTACHMENTS

- Appendix A: Subject Property Map
- Appendix B: Agricultural Land Reserve Map
- Appendix C: Zoning Map
- Appendix D: Proposed Site Plan
- Appendix E: Proposal
- Appendix F: LUC Minutes Excerpt – February 18, 2020