



## THE CORPORATION OF THE DISTRICT OF SUMMERLAND REQUEST FOR DECISION

DATE: June 27, 2022  
TO: Graham Statt, Chief Administrative Officer  
FROM: JoAnn Peachey, Planner II  
SUBJECT: Zoning Bylaw Review – Housing on Agricultural Lands

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FILE: Z22-002

### STAFF RECOMMENDATION:

That Council pass the following resolution:

***THAT Official Community Plan Amendment Bylaw No. 2022-022 be read a first and second time;***

***THAT the process, as outlined in this report from Planner II, dated June 27, 2022 be considered appropriate consultation for the purpose of Section 475 of the Local Government Act;***

***THAT Zoning Amendment Bylaw No. 2022-023 be read a first and second time;***

***AND THAT a Public Hearing be held on July 25, 2022 to receive public feedback on the Official Community Plan Amendment Bylaw No. 2022-022 and Zoning Bylaw Amendment Bylaw No. 2022-023.***

### STRATEGIC PRIORITY:

**Good Governance** – Reviewing housing policy on agricultural lands is an opportunity to improve processes for allowing secondary homes on agricultural lands and support community resiliency.

### CULTURAL IMPACT STATEMENT:

**Community Character** - “Reflect Summerland’s cultural values in municipal decisions and projects.”

\*District of Summerland Cultural Plan (2016)

### PURPOSE:

To consider amendments to the Official Community Plan and Zoning Bylaw to update the housing regulations for agricultural zones.

## BACKGROUND:

### ***Agricultural Land Reserve (ALR) Use Regulation***

On December 31, 2021, ALR Regulation 30/2019 was amended to allow for an additional residence up to 90 m<sup>2</sup> on parcels less than 40 ha without ALC approval, if the principal residence is 500 m<sup>2</sup> or less. It is noted that a secondary suite within the principal residence is also permitted without ALC approval.

The Agricultural Land Commission (ALC) establishes regulations and governs land use within the ALR and this most recent amendment was completed to add residential housing flexibility within the ALR for agricultural landowners and farmers. Since the announcement of the proposed regulatory amendment (July 2021), the District's offices have been getting regular inquiries about the potential to add a secondary residence on agricultural properties from local farmers and landowners interested in providing more housing options on their properties and subsidizing their farm income with rental revenue. For this reason, staff is recommending that one goal of this project is to align, as much as possible, with the flexibility provided by the ALC to provide options to Summerland agricultural landowners to diversify their operations.

In response to changes to ALR Regulation 30/2019, Council provided the following resolution at its May 9, 2022 meeting (May 9 staff report included as Attachment No. 1):

***THAT staff be directed to draft Official Community Plan and Zoning Bylaw amendments for housing on agricultural lands to:***

- ***Allow flexibility of residential uses by allowing carriage houses up to 90 m<sup>2</sup> on agricultural lands***
- ***Limit residential encroachment by siting carriage houses within the existing farm home plate***
- ***Discourage the use of arable lands for residential purposes further by specifying siting conditions for the farm home plate to be located near roads or on non-arable land (land not suitable for agricultural production).***

### ***Official Community Plan***

The District's Official Community Plan (OCP) includes policies specific to agricultural lands and their protection as well as policies related to housing and sustainability. Throughout the OCP, the protection of agricultural lands is a key principle, stemming from the Regional Growth Strategy's theme of carefully directing human settlement to urban areas and Summerland's community vision of preserving and enhancing agricultural character.

In relation to residential uses on agricultural lands, related OCP policies are to:

- Confine residential development in the ALR to farm residences (Section 7.2.3.1)
- Develop a farm residential "home plate" to minimize the impacts of the residential and other associated non-farm uses on farm parcels (Section 7.2.3.2)
- Ensure new urban land developments provide adequate buffers to minimize the conflicts with agricultural operations (Section 7.2.3.10)
- Implement the strategies as described with any adopted agricultural plan for the community.

## PROPOSED OCP BYLAW AMENDMENTS

The proposed OCP amendment bylaw would shift the policies of lands under the Agricultural designation from confining residential development in the ALR to farm residences (Section

7.2.3.1) to supporting housing options that meets the housing and operational needs of farmers and agricultural landowners. The proposed amendment bylaw further solidifies the importance of the farm home plate and encourages the use of capable lands for farming.

### ***Zoning Bylaw No. 2000-450***

In the A1 and A2 zones, principal residential uses include either a single detached dwelling or manufactured housing – Type 1 or 2. Accessory residential uses are limited to a secondary suite, additional dwelling for farm help (for full-time employees), and temporary farm worker accommodation (for seasonal workers).

Residential uses in the A1 and A2 zones are confined within a “farm home plate”. The A1 zone has a smaller “farm home plate” of 905 m<sup>2</sup> for properties with one residence compared to the A2 zone allowing 1,200 m<sup>2</sup>. The A1 and A2 zones both allow for a larger “farm home plate” if there is temporary and/or additional dwelling for farm help (up to 1,500 m<sup>2</sup> in the A1 zone and 2,000 m<sup>2</sup> in the A2 zone). Residential buildings and structures are allowed to cover 35% coverage of the farm home plate, resulting in an increase in permitted residential building and structure coverage with a larger farm home plate.

### **PROPOSED ZONING BYLAW AMENDMENTS**

The proposed zoning amendment bylaw seeks to align with the flexibility provided by the ALC to provide options to Summerland agricultural landowners and farmers to diversify their operations while limiting the encroachment of residential uses on lands suitable for agriculture. The following changes are being proposed affecting the A1 and A2 zones:

- Replace “additional dwelling for farm help” use with “carriage house” [carriage houses are currently limited to 90m<sup>2</sup> in size within the Zoning Bylaw, which is consistent with the new ALR regulation]
- Require “carriage houses” to be within the “farm home plate”
- Align maximum floor area calculations with ALC permissions (not applying certain exemptions to floor area calculations for carriage houses in the ALR only)
- Redefine the “farm home plate” and site the “farm home plate” near a road or on land not suitable for farming
- Allow for existing “farm home plates” to be used even if they don’t meet the new siting or size requirements
- Have one maximum size of a “farm home plate” for both A1 and A2 zones regardless of what is sited within it
- Increase allowable farm home plate coverage from 35% to 45% to accommodate the inclusion of a “carriage house”
- Exclude temporary farm worker accommodation from the farm home plate to allow flexibility to farm operators to best locate these buildings on their farm parcels
- Remove the gross floor area maximum for accessory buildings

### **OCP Amendment Consultation**

Pursuant to Section 475 of the *Local Government Act*, the District must provide one or more opportunities it considers appropriate for affected persons, organizations and authorities (including adjacent Regional Districts/Municipalities, first nations, Provincial/Federal agencies, and board (such as education or improvement districts) and whether such consultation should be early and ongoing.

Pursuant to Section 476 of the *Local Government Act*, the District must consult with the relevant School District when proposing to amend an OCP for an area that includes the whole or any part of that School District. As such, School District No. 67 have been referred the proposed amendment bylaws on May 20, 2022.

The District held a workshop on April 12, 2022 to explore the topic of housing on agricultural lands and was attended by approximately 20 people representing the Agricultural Advisory Committee, Development Process Improvement Advisory Committee, Water Advisory Committee, Interior Health, Ministry of Agriculture, and Council.

The draft bylaws were circulated to internal departments and external agencies and were reviewed by the Development Process Improvement Committee (DPIAC), Advisory Planning Commission (APC), and Agricultural Advisory Committee (AAC).

The general public will be provided the opportunity to comment on the proposed bylaws as part of the public hearing process. In addition to statutory requirements for newspaper ads, staff will mail letters to property owners of agricultural properties to increase awareness of the proposed bylaws and public hearing.

**Internal Referral Comments:**

- All buildings shall conform to BC Building Code.
- All buildings shall conform to BC Fire Code.
- Any building that sleeps more than 10 people is required to have a fire alarm system installed.

**External Referral Comments:**

The draft zoning amendment bylaw was referred to the following agencies: Agricultural Land Commission, BC Assessment Authority, Canada Post, Fortis Gas, Interior Health, Ministry of Forests, Lands and Natural Resource Operations, Ministry of Transportation and Infrastructure, School District No. 67, Shaw Cable, Telus and Ministry of Agriculture on May 20, 2022.

MoTI granted preliminary approval of the proposed text amendments on May 20, 2022.

The Agricultural Land Commission provided comment on the maximum floor area for carriage houses and advised that under Commission Resolution No. 086N/2021 indoor parking, unenclosed carports, interior stairways, and mechanical rooms are included in total floor area calculation. In response to these comments, the draft bylaw limits floor area calculation exemptions for carriage houses in the ALR.

**Development Process Improvement Advisory Committee:**

The Development Process Improvement Committee (DPIAC) considered the draft bylaws at their meeting on May 25, 2022. Comments from the DPIAC are detailed below:

- Question on how a carriage house is defined
- Clarification on if secondary suites and carriage houses can be constructed on the same property.
- Question of the maximum size being either 75% of principal dwelling or 90m<sup>2</sup>.
- Concern on if a carriage house will be used for short term rental purposes.

- Farm Home Plate is still a “District of Summerland” regulation that is not consistent with the ALC and that is still restrictive. Staff responded that we are trying to find the right ‘balance’ of protecting farmland and providing flexibility.
- Question on what we do for buildings that are currently non-conforming and outside the farm home plate?
- The District should take an inventory of secondary residences on agricultural lands that are currently existing.

The DPIAC passed the following resolution:

*THAT the DPIAC supports Official Community Plan Amendment Bylaw No. 2022-022 and Zoning Amendment Bylaw No. 2022-023 to update the housing regulations for agricultural lands and provide additional consistency with the Agricultural Land Reserve Use Regulation, and encourage Council to look at productive uses for non-farmable land within Agricultural zones.*

#### **Advisory Planning Commission:**

The Advisory Planning Commission (APC) considered the draft bylaws at their meeting on May 27, 2022. Comments from the APC are detailed below:

- Question on whether an inventory has been completed to document the type of housing currently on agricultural lands and concern about the amount of agricultural land being used for residences
- Question on the use of an agrologist’s report
- Question on the intent of increasing the farm plate coverage to 45%
- Comments about the required four-sided shape of the farm home plate and concern that it may prevent some contiguous shapes that may be appropriate
- Concern about tax reductions for agricultural properties and the low standard for obtaining exemptions
- Concern about additional septic systems if temporary farm worker housing can be located in a different area than the farm home plate
- Clarification that the principal residence can be up to 500 square metres and that a carriage house is limited to 90 square meters. Carriage house can be above a garage or on the ground floor.
- Comment from one member that the opinion of the Agricultural Advisory Committee should be provided before the APC makes a recommendation.

The APC passed the following resolution:

*THAT the APC supports Official Community Plan Amendment Bylaw No. 2022-022 and Zoning Amendment Bylaw No. 2022-023 to update the housing regulations for agricultural lands and provide additional consistency with the Agricultural Land Reserve Use Regulation.*

#### **Agricultural Advisory Committee:**

The Agricultural Advisory Committee (AAC) considered the draft regulatory framework at their meeting on June 16, 2022. Comments from the APC are detailed below:

- Question if you can have a Temporary Farm Worker Accommodation in addition to the “additional dwelling for farm help” or carriage house?
- Comment that the OBWB 1.0 Hectare rule still restricts placement of secondary homes. Should this be increased to be potentially 2.0 Ha?
- Septic fields are not that big, so no need to restrict lots further to be larger than 1.0 Hectares
- The increase of 35% to 45% coverage of a 905 m<sup>2</sup> Farm Home Plate, is 90m<sup>2</sup>, which makes sense if we are restricting carriage houses to 90m<sup>2</sup>.
- The Farm Home Plate regulations should state “not suitable” for farming, not “less suitable”. Class 3 soils could be argued “less suitable” than Class 2, but still productive for farming. Staff agreed that this change can be made.
- The ALC has essentially downloaded responsibility to maintain the ALR to local governments with their regulatory changes.
- What are the tax implications for these changes to agricultural properties? There is a narrative with the District that farmers are not paying enough taxes.
- Against the removal for “farm help” requirement being removed from the additional dwelling unit. Shouldn't we restrict the use of the second dwelling being used for short term rental (AirBnB) use?
- AAC would like to see the referral comments from the ALC on the proposed regulation changes
- Carriage houses should be focused on either farm help or family purposes only.
- Impressed in the amount of work done by staff on the proposed amendments, the only sticking point is the use of the carriage houses.
- Potential to use MRDT tax for short term rentals to gain tax revenue from this use

The AAC passed the following resolution:

*THAT the AAC supports Official Community Plan Amendment Bylaw No. 2022-022 and Zoning Amendment Bylaw No. 2022-023 to update the housing regulations for agricultural lands, with limitations on what the carriage house can be used for being for farm help or family purposes only.*

After receiving comments from the DPIAC, AAC and APC, the draft zoning amendment bylaw was adjusted to refer to “not suitable” lands instead of “less suitable” lands for farm home plates.

#### DISCUSSION:

The proposed amendment bylaws aim to align with the additional flexibility for residential uses provided by the ALC and what is allowed for residential lots in Summerland of comparable size to the farm home plate. It limits the impact on lands with farming capability while providing flexibility of residential uses to meet the needs of the agricultural community.

Such an approach seeks to maintain primacy of farming on suitable lands, which is seen to support Summerland's goal of supporting its strong agricultural community, maintaining its agricultural identity, promoting food security and encouraging housing growth toward urban areas.

The proposed zoning amendment allows carriage houses in the A1 and A2 zone, within the farm home plate, and using the same regulations applied to carriage houses in all other zones (with exemption to the floor area calculations required to align with ALC permissions). This includes

maintaining the one-hectare rule for carriage houses on lots not serviced by community sewer, having a maximum floor area of 90m<sup>2</sup>, and only permitting either a secondary suite or a carriage house on a lot, and not both.

The farm home plate limits farmland encroachment on an individual lot and is key to mitigating the impact of allowing additional residential uses on farm parcels. The intent of the bylaw is to accommodate an additional dwelling in alignment with the ALC regulation and to contain it within the area where other residential uses already could occur. In addition, the proposed amendment bylaw further limits farmland encroachment by fixing the farm home plate size to what is currently provided and not allowing the size to increase with the inclusion of additional residential uses.

Removing the limitations of who can use an additional dwelling allows for greater flexibility for agricultural landowners to meet their individual needs, whether that be housing for their family, farm workers or income diversification (through rental). Although intended to be beneficial to farmers and the agricultural community, additional residences not restricted to farm help can add value to agricultural parcels and provide alternative streams of rental revenue income for the farm operator to potentially help achieve greater farm financial sustainability. For these reasons, staff is not in favour of the AAC's recommendation to continue to restrict the "use" of secondary homes on agricultural land. As well, following the AAC's recommendation would not create any residential "flexibility", which was a previously stated goal of Council's, as the District's Zoning Bylaw currently allows use-restricted secondary dwellings through the "additional dwelling for farm help" allowance.

Furthermore, the proposed farm home plate regulations limit the extent of residential use so that no regulatory advantage (such as additional lot coverage for a larger house or additional uses) is gained from purchasing a larger farm parcel. In addition, Summerland's residential permissions are more restrictive than surrounding jurisdictions which makes any potential agricultural land speculation in Summerland due to the allowance of two dwellings less appealing than in other areas where there is no farm home plate and/or larger residential footprints are allowed. Lastly, the District's short term rental regulations currently only allow one short term rental per property, and includes the requirement of one principal residence, so the potential speculative forces to consider agricultural land for short term rental purposes only is also limited.

#### LEGISLATION and POLICY:

- ALR Regulation 30/2019
- *Official Community Plan*
- *Zoning Bylaw 2000-450*

#### FINANCIAL IMPLICATIONS:

N/A

#### SUPPORTING DOCUMENTS:

1. Previous Staff Report dated May 9, 2022
2. Draft OCP Bylaw Amendment Bylaw No. 2022-022
3. Draft Zoning Bylaw Amendment Bylaw No. 2022-023
4. Annotated Draft Zoning Bylaw
5. Consolidated Zoning Bylaw Red-lined Version
6. External Agency Comments

CONCLUSION:

Staff is recommending Council provide the first two readings of the proposed Official Community Plan and zoning amendment bylaws and to schedule a public hearing date for July 25, 2022 to allow for additional residential flexibility and improved farm home plate regulations.

OPTIONS:

1. Move the motion as recommended by staff.
2. Refer to staff for other options.

Respectfully submitted,



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Planner II

Reviewed by,



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*Brad Dollevoet*  
Director of Development  
Services

Endorsed by,



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*Graham Statt*  
Chief Administrative  
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Presentation: Yes ☒ No ☐