

SUBJECT TO APPROVAL

DISTRICT OF NORTH SAANICH

Minutes of the Meeting of the
Agricultural Advisory Commission

December 3, 2009 4:00 p.m.

PRESENT:

Chair	B. Brennan
Members	H. Crawford
	B. Greene
	B. Hughes
APC Liaison	T. Izard (4:19)
EAC Liaison	J. Thornburgh
Ministry of Agriculture and Lands	R. Kline (4:19)
Council Liaison	A. Scoones
Manager, Corporate Services	C. Kingsley
Recording Secretary	L. Coburn

ABSENT

Members	B. Dunic
	N. Schafer
	J. von Kaldenberg

The meeting was called to order at 4:11 p.m.

ADOPTION OF AND ADDITIONS TO THE AGENDA

Councillor Scoones added a summary of the Tri Municipal Council meeting under **New Business**.

MOVED BY: B. Green
SECONDED: H. Crawford

34-AAC That the agenda be adopted as amended.

CARRIED

APPROVAL OF MINUTES

MOVED BY: B. Green
SECONDED BY: H. Crawford

35-AAC That the minutes of November 5, 2009 be adopted as circulated.

CARRIED

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CORRESPONDENCE

The Chair expressed her appreciation to the Manager of Corporate Services for the letter he wrote dated November 25, 2009 on behalf of Council to CRD Board Chair Geoff Young requesting the agricultural water rate not be raised. The Manager of Corporate Services stated that he would advise Commission members if a response to the letter was received.

Councillor Scoones advised Commission members that the CRD voted unanimously to approve the increase in the agricultural water rate.

OLD BUSINESS

A. Agriculture Plan

H. Crawford was appreciative that the meeting with Jim LeMaistre was opened up to consider issues other than buffer zones. H. Crawford distributed a copy of comments he had on the Preliminary Review of North Saanich's OCP and Zoning Bylaw with Respect to Agriculture (Appendix A).

The Chair stated that it had been suggested to her that the Agricultural Advisory Commission request that Council authorize the Commission to seek legal guidance on the plan. The Commission wants the language of the Agriculture Plan to support agriculture in the community and to be seen to support it. The use of advocacy language over areas in which the district has no jurisdiction was of concern.

MOVED BY: H. Crawford
SECONDED: B. Hughes

36-AAC The Agricultural Advisory Commission respectfully requests Council to have the draft preliminary review of North Saanich's OCP and Zoning by law reviewed by a lawyer who specializes in agricultural land use policy (such as Deborah Curran) with particular attention to the items as marked on Appendix A as soon as possible.

CARRIED

B. Green suggested that the Commission ensure that the Agriculture Plan contain language the Commission is happy with. It will then be up to Council to approve, or not approve, the language and at that point legal advice might need to be sought.

R. Kline stated that D. Masselink has until March 31, 2010 to complete his work. He asked when the draft agricultural plan was due. He noted the concern with raising expectations and that an agriculture plan is not a legal document but a visionary one, similar to an OCP. An agriculture plan can only make recommendations to a council. The language must not suggest the District of North Saanich is obligated to act.

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Councillor Scoones suggested that the Commission give a brief update to Council about the progress of the Agriculture Plan in the New Year.

B. Food security Correspondence from D. Friend (deferred from Sept. agenda)

Staff advised Commission members that Council will not entertain proposals for use of property when the proponent does not own the property in question.

C. 2009 UBCM Resolutions

Councillor Scoones informed Commission members that the executive of the Union of BC Municipalities endorsed the school garden resolution put forward by the District of North Saanich.

NEW BUSINESS

A. Geese and Their Impact on the Environment

The Commission discussed solutions to deal with geese on farmland and the practice in other municipalities.

B. Tri-Municipal Council Meeting

Councillor Scoones informed Commission members of the agriculture-related issues she raised at the Tri-Municipal Council meeting held November 30, 2009. The District of North Saanich is approximately one year ahead of Central Saanich in the agriculture plan process. Councillor Scoones suggested inviting the Agriculture Commission from Central Saanich to a future meeting of the AAC.

R. Kline suggested the Commission consider requesting Mark Boysen, Sustainability Coordinator, District of Saanich, to attend and give a presentation on that district's Draft Climate Action Plan.

DATE OF NEXT MEETING

The meeting scheduled for January 7, 2009 shall instead be held January 14, 2010.

ADJOURNMENT

The Commission adjourned at 5:57 p.m.

By unanimous consent

Chair

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APPENDIX A

From HAWAII

Some comments and observations
about the 'PRELIMINARY REVIEW OF H.S.
O.C.P. & ZONING BYLAW WITH RESPECT TO
AG' WASSERLINKI DRAFT. (SEE COPIES WITH
SCRATCHES NOTED.)

ALSO THE H.S. AG PLAN SHOULD MAKE
REFERENCE TO THE B.C. AG PLAN. THE
H.S. PLAN HAS TO BE CONSISTENT WITH THIS

PRELIMINARY REVIEW OF NORTH SAANICH'S OCP & ZONING BYLAW WITH RESPECT TO AGRICULTURE

Introduction

The purpose of this review is to provide agriculture-related comments and suggestions on the District of North Saanich's Official Community Plan and Zoning Bylaw and to inform discussions on potential changes and updates that would improve conditions for local agriculture and food production. Provision of this preliminary review is a required deliverable of North Saanich's current Agriculture Plan process.

The comments and suggestions were received from members of North Saanich's Agricultural Advisory Commission, District staff, participants in the Agricultural Plan process, and by other qualified professionals. We expect that further work and amendments to these bylaws will require the services and oversight of District staff and qualified legal council. ^A *WOST*
IMPORTANT

Key suggestions from our preliminary review include:

- ✓ Bill 27 OCP amendments provide the District with an opportunity to insert additional or highlight existing agricultural policies that improve conditions for local agriculture and food production and therefore address the issue of climate change;
- ✓ The establishment of Agricultural DPA to protect agricultural activities from adjacent development may not be warranted;
- ✓ Agricultural-related terms and definitions used within the Zoning Bylaw could be better 'harmonized' with the existing terms and definitions used by related pieces of Provincial legislation such as the ALC Act, and BC Assessment Act; and
- GOVA* ✓ Hosting a fall workshop with key Ministry staff and District AAC and staff members to collectively identify potential improvements to the Zoning Bylaw so that it better supports local agriculture and food production.

Official Community Plan – Bylaw 1130 – Adopted in 2007

In general, this relatively recent bylaw is quite supportive of local agriculture and establishes clear objectives to "retain the present rural, agricultural and marine character of the community;" and the preservation and protection of the ALR and the initiatives of the ALC to assist the economical viability of farming.

The preamble to the Agriculture Section (p.12) further describes and reinforces the District's commitment to and interest in agriculture. It establishes the current amount of ALR land within the District at the time the OCP was adopted. It underscores the importance and value of retaining and maintaining the viability of these lands and summarizes the overall approach the District will take to protect and maintain these lands and associated activities.

The preamble concludes with the provision of a differentiation between two types of agricultural land - the majority of which are designated as agricultural and the few designated as rural. This is important because it establishes a distinction between rural and agricultural lands - a distinction that isn't directly described in the much older (Adopted in

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1993) Zoning Bylaw, Bylaw No. 750. However, a rationale for the establishment of this rural land designation is provided:

THIS IS WRONG IF SITUATION IS AGRICULTURAL

"The general purpose of lands designated as Rural is to provide a buffer between residential development and agricultural land use. Rural areas not within the ALR are intended to accommodate hobby farms, small-scale farm operations and small acreage residential bases within an agricultural setting. Along Wain and Tatlow Roads between Heather and Littlewood Roads, land in the ALR has been given a Rural designation. Agricultural use of this ALR land is encouraged regardless of soil capability with agricultural activities that are less reliant on soil capability strongly supported."

This explicit distinction between agricultural and rural land use designations has prompted a questioning of the Zoning Bylaw which does not directly make this distinction - instead it classifies all agricultural and rural land in the A1-A6 zones as Rural 1 - 6. This is mainly an issue of clarity and optics as the associated zoning regulations establish the difference between these zones.

It may be helpful to explain that the OCP's Land Use Designation Schedule and the Zoning Map are not one in the same and designed to serve different purposes.

2007 OCP Ag.-related Policies	Analysis	Discussion
<p>Section 5.0 - Agriculture</p> <ol style="list-style-type: none"> Lands designated Agricultural on Schedule B have the capability for agricultural use. The District does not support any commercial or non-agricultural development on land located within the Agricultural Land Reserve unless it meets the rural philosophy of North Saanich and is approved by the Agricultural Land Commission. To protect ALR land from uses that are incompatible or inconsistent with agricultural use, proposed development adjacent to Agricultural and Rural areas may only be supported in accordance with the following criteria: <ol style="list-style-type: none"> The development will have minimal impact on the existing man-made and natural physical features of the area; and There must be a buffer zone used between the proposed land use and the 	<p>Analysis</p> <p><i>RURAL IS AGRICULTURAL</i></p>	<p>Discussion</p> <p>Currently this designation is not explicitly reflected in the Zoning Bylaw (No. 750) as lands found within the ALR are called Rural. However, their permitted uses generally support agriculture. Could be strengthened. On completion of the Agriculture Plan this policy could be amended to read: "...unless it supports the vision and goals of the Agriculture Plan."</p> <p>Ok. The Agriculture Plan may provide clearer direction. It is anticipated that this policy may provide a comparable level of oversight to that provided by an agricultural development permit area established on lands immediately adjacent to Agriculture and Rural areas. However it could be argued that this policy would be strengthened through the provision of specific guidelines that define the extent and nature of land uses allowed within the buffer area described in 5.3(b).</p>

FARMING IS A COMMERCIAL ENTERPRISE THIS RESERVATION SHOULD BE DESIGNATED

2007 OCP Ag. related Policies	Analysis		Discussion
	Whitney	Central	

agricultural parcels of land, on the non-farm side of the agricultural area.

4. All types of crop and livestock-based agricultural activities are supported on Agricultural lands.

✓

✓

* WE NEED TO HAVE THIS EXPLAINED BY QUALIFIED LEGAL COUNSEL.

Advocacy policy (not within the jurisdiction of the District). Given this it could be amended to indicate the support for locally appropriate farm practices as described in the Agriculture Plan.
Connected to policy 5.1. See above comments.

5. Further work will be done by the District on edge planning and the development of a buffer strip for the protection of agriculture.

✓

✓

The District of Central Saanich established the following policy approach to this issue, thereby avoiding the need to establish an agricultural DPA: "Land abutting ALR land is to include a buffer strip. Any new development on lands adjacent to ALR lands may be required to provide berms, landscaped buffer areas, and/or fencing next to the property line between the farm and the non-agricultural use. The land use bylaw specifies setback requirements for residential development adjacent to lands in the ALR" (Policy 3.2.2.1).
Confusing (see previous comments in the Agriculture section's preamble).

THIS IS GOOD ->
WHY CAN N.S. HAVE SUCH A POLICY?
THIS IS WHAT WE HAVE BEEN PUSHING FOR

6. Lands designated as Rural are presently of a variety of sizes, but no Rural lands may be subdivided into parcel sizes smaller than 4.0 hectares (10 acres).

✓

"This policy conflicts with the current Zoning Bylaw. A number of parcels currently zoned A3 and P5 are found within designated Rural land use areas. Under the Zoning Bylaw these zones establish minimum parcel size requirements that are less than minimum 4.0ha set by this OCP policy."

7. For lands designated as Rural on Schedule B but not in the ALR, permitted uses include agricultural activities such as greenhouses, woodlots and farm riding stables as well as transitional or compatible uses such as parks or hobby farms.

✓

May be better to refer to the BC Assessment Act definition that clearly lists acceptable farm uses.

8. For lands designated as Rural on Schedule B which are in the ALR*, all agricultural activities including those uses that are less soil dependent such as greenhouses, woodlots and riding stables are supported and encouraged.
* This policy statement is specific to the sub-area designated as the north of Wain Road between Heather and Littlewood Roads.

✓

THIS IS NEW GOOD - IT IS THE ALR RURAL TOWN
See above comment.
CLEARLY LIST ACCEPTABLE FARM USE.

9. On lands designated as Agricultural and Rural, but not within the

✓

Good.

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2007 OCP Ag.-related Policies	Analysis					Discussion
	Context	Material	Policy	Intent	Form	
Agricultural Land Reserve, outdoor recreation uses may be permitted where it can be demonstrated that there is no reduction in the amount of land being used for agricultural purposes and no impact on surrounding agricultural uses.						
10. Only those outdoor recreational uses permitted by the <u>Agricultural Land Commission Act Regulation 171/2002</u> will be allowed on lands in the ALR.	✓					Good.
11. To preserve land in the ALR for current and future agricultural production, the District does not encourage or support applications for exclusion of land from the ALR.	✓					Good.
12. The subdivision of any land within the ALR designated lands can be supported for agricultural activities only.				✓		Ok - could be strengthened by adding "...can be supported if it can be demonstrated that subdivision will provide a clear and demonstrable benefit to agriculture."
13. The District of North Saanich does not support any requests for subdivision pursuant to Section 946 of the <u>Local Government Act</u> within the Agricultural Land Reserve, unless the new parcel is 0.8 ha (2 ac.) or less in size and is sited on soils having an agricultural capability rating of Class 4 or higher as noted in the Land Capability Classification System for Agriculture in British Columbia - MDE Manual 1, 1983.				✓		OK - but would be useful to clearly state the purpose of this policy. Is this policy to support home site covenances?
14. To ensure the sustainability of the District's farm community as an integral part of agriculture on the <u>Saanich Peninsula, agricultural activities, ancillary agriculture uses such as agri-tourism and the uses outlined in the Agricultural Land Commission Act Regulation 171/2002 Section 2(1)</u> are encouraged on lands in the ALR.				✓		OK but a more balanced approach could be made by suggesting that they are "supported" rather than encouraged.
15. Lands designated as Agricultural are presently of a variety of sizes, but no Agricultural lands may be subdivided into parcel sizes smaller than 20.0 hectares (50 acres).	✓			✓		Good but appears conflict with the Zoning Bylaw, given that Zones A2-A6 found within the ALR allow for smaller parcel sizes. I expect the intention of this policy is to prevent the reduction of parcels ≥20.0 ha in size below this 20.0 ha threshold. This may be difficult politically to correct in the Zoning Bylaw.

R A F

LEAVE AS IS

2007 OCP Ag.-related Policies	Analysis	Discussion
16. For land located within the ALR, this bylaw is binding only insofar as it is not contrary to the <i>Agricultural Land Commission Act</i> , the <i>Farm Practices Protection (Right to Farm) Act</i> and the <i>Agricultural Land Reserve Land Use, Subdivision and Procedure Regulation 171/2002</i> .	✓	Good.
17. Those federal lands which are identified on Figure 1 as being in the ALR should be designated as Agricultural on Schedule B if the federal government transfers ownership and the land is then subject to provincial legislation.	✓	Good. Again it might be useful to indicate that the District does not have authority over these lands and that the OCP and Zoning Bylaw does not apply.
Section 16.7 - Regional Context Statements		
1. Keep urban settlement compact - "Approximately one-third of the District's total area is comprised of lands within the ALR. Most of the ALR lands are designated as Agricultural in the OCP and are identified as Renewable Resource Lands Policy Areas in the RGS. These lands are considered to be a "Rural Protection Area". Non-agricultural commercial uses within the Rural Protection Area are not supported. The District will not extend services to these areas other than for health reasons.	✓	Very good. Underscore commitment to protecting agricultural land.
2. Protect the integrity of rural communities - "Support of agricultural activities and rural land uses is a primary goal of the Plan. Considerable effort has gone into drafting policy statements designed to protect the rural nature of North Saanich. These policies are aimed at retaining the land base for current and potential agriculture, ensuring that the agricultural potential of farmland is not diminished by the location of services or community facilities, and reducing potential conflicts with non-farm uses. Maintaining the agricultural viability of lands in the Rural Protection Area is important as it provides for local food security and economic diversity. It also preserves the valuable rural landscapes found	✓	Very good.

DRAFT

2007 OCP Ag.-related Policies	Analysis					Discussion
	Process	Warrant	Policy	Zoning	ZOO	
throughout the community.						
3. Protect regional green and blue spaces.		✓				Connected to Policy 14.1.3.
4. Manage natural resources and the environment sustainably.		✓				Suggests a commitment to encouraging sustainable and ecologically considerate farm management practices.
5. Build complete communities.		✓				Complete communities include agriculture.
6. Improve housing affordability.		✓				Supports the provision of farm worker housing
7. Increase transportation choice.		✓				Supports alternative transportation t and from farms for customers and farm workers.
8. Strengthen the regional economy.		✓				Recognizes local economic value of farming.
Section 18.1 - Additional Community Objectives & Policies - Agriculture						It is important to note that the District's legal counsel has advised against including advocacy policies like these as they are not enforceable and they may create unrealistic public and political expectations.
1. The District supports a fair system of water pricing for agricultural activities.	✓	✓				Good. Could be further strengthened by stating: "The District supports the use of a <i>bulk</i> agricultural water rate for farmers."
2. The District supports a permanent farm advisory commission for the Saanich Peninsula to address farm issues and to implement the following strategic objectives outlined in the "Agriculture Strategy for the Saanich Peninsula":	✓	✓	✓			Update to reflect that the District now has an Agricultural Advisory Commission and will have an Agriculture Plan
a. secure an adequate supply of water to farms at a competitive cost;						
b. increase economic returns to farmers;						
c. enhance to sustainability of the agricultural land base;						
d. foster stewardship of farm land which embraces environmental and other community values;						
e. increase public awareness, education and support for a viable farm community; and						
f. establish a continuing focal point for farm issues and implementation of the agriculture strategy.						
3. The District recognizes and values the contribution that lands in the ALR make towards green and open space in the community		✓				Connected to Policy 16.2.3

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2007 OCP Ag.-related Policies	Analysis					Discussion
	Accuracy	Materiality	Balance	Applicability	Cost	
Section 18.4 - Additional Community Objectives & Policies - Water						
2. The District strives to provide an acceptable standard of water supply for domestic consumption, agriculture and fire protection.		✓				Good.
5. The use of groundwater resources for irrigation and agriculture may be supported.	✓		✓	✓		Needs to be more thoroughly considered given increasing concerns about reducing or contaminating local groundwater reserves. This policy could be reworded to: "Support the use of groundwater resources for irrigation and general agricultural uses, provided that this resource is used carefully and that no negative environmental impacts result from its use." It would be useful to provide a policy that encourages water conservation measures. Such as: "Work with the agricultural community to support water conservation measures on farms."

Section 18.5 - Additional Community Objectives & Policies - Airport Development						
3. The District supports the use of Airport lands for outdoor recreation uses, apart from golf courses on lands within the Agricultural Land Reserve.		✓				Opportunity to support the continued use of these lands for agriculture. Connected to Policy 5.17.
6. <i>AGAIN!</i> The District does not support any commercial or non-agricultural development on land located within the Agricultural Land Reserve except for that which meets the rural philosophy of North Saanich and is approved by the Agricultural Land Commission.				✓		Good. Update to reflect the direction provided by the Agriculture Plan. <i>DELETE COMMERCIAL.</i>
8. The District does not support changing uses of the areas zoned for Agriculture or Recreation without consideration for greenway objectives such as: a. ecologically sensitive areas, b. green space; and c. visual features.				✓		OK - could be strengthened by also considering agricultural objectives.

OCP Policy Review

After reviewing the OCP, it is our opinion that the policies directly or indirectly connected to agriculture are clear, up-to-date and very supportive of agriculture. It is our understanding that prior to its adoption the OCP was thoroughly reviewed and supported by qualified staff from the Ministry of Agriculture and Land and the Agricultural Land Commission.

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Given the relatively recent establishment of this bylaw and the extensive work that went into its development and adoption, this document does not require immediate attention. Our comments are, in most cases, relatively minor. Our comments have been informed by our work with the community on the development of the Agriculture Plan and the direction and input provided by the Agricultural Advisory Commission. Our comments are intended to highlight potential opportunities to strengthen the Plan's support for agriculture.

Additional OCP Policy Suggestions

We are suggesting a number of additional policies that might be considered for inclusion if and when the OCP is next updated. A number of these policies are in Central Saanich's OCP and were developed with input from the agricultural community. We have also broached the possibility of establishing Agricultural DPA guidelines within the OCP. However, given the context of most agricultural properties we do not see this as effective way to protect agricultural practices within the District.

It is worth noting that the *Local Government (Green Communities) Statutes Amendment Act, (Bill 27)* requires that local governments update their OCPs before May 31, 2010 so that they include greenhouse gas emission targets, policies and actions.¹ This requirement may provide the District with an opportunity to include a number of these suggested policy amendments and additions. Many of these suggested policy changes that support agriculture could be proposed as mitigative measures to reduce greenhouse gases and address the effects of climate change.

Additional Agriculture-related Policies	Discussion
1. New roads, utility corridors or other public uses shall not be located on agricultural lands unless no suitable alternative exists. In those cases where no suitable alternative exists, land excluded from the ALR must be replaced with land of equal or greater agricultural value within the District.	This recognizes the potential negative effects that these elements can have on agricultural land.
2. Recognize and support normal farm practices as defined by the Farm Practices Protection (Right to Farm) Act in the vicinity of residential areas. North Saanich is a predominantly an agricultural and rural area, and certain uses with possible undesirable side effects, (odours from fertilizers and noises from animals) are to be expected. In the case of conflict with adjacent development, the agricultural use will be favoured.	Establishes District's position on and support for "normal farm practices."
3. Support drainage, storm water management, and irrigation projects that improve the productivity of farmland and participate in suitable programs offered by senior government agencies.	This is an issue that was raised during the Community Dialogues. The ALC Act allows local governments to establish policies that benefit farming on ALR land.
4. Support local efforts to acquire and protect agricultural land within the District that increase local sustainable food production and create opportunities for new farmers.	A way of indicating support for alternative farmland acquisition and management approaches.
5. As farm classification and related tax benefits are important incentives for farmers, <u>advocate</u> to ensure that any changes in tax policy or implementation of tax policy is not detrimental to the viability of farm operations or management and stewardship practices.	This issue was brought up by a wide variety of people during the Community Dialogues.
Support the beneficial application of recycled organic matter and compost on farmlands to reduce the District's contribution to the waste stream and improve the health and	Supports District's efforts to reduce waste.

NOW WE CAN !! I THINK WE WANT SUPPORT TO

¹ www.cd.gov.bc.ca/lgd/intergov_relations/library/Bill27_Green_Communities_FAQs.pdf

Additional Agriculture-related Policies	Discussion
fertility of local soils.	
7. Encourage the agricultural community to provide leadership in the protection and conservation of the environment and natural resources as it relates to farm practice.	States District's interest and support for environmentally beneficial land management practices. The issue of environmental farm management practices received considerable attention during the Community Dialogues. See previous comments.
8. Encourage the implementation of environmental and sustainable farm practices that provide local producers with an economic advantage while improving the health of the local community.	See previous comments.
9. Support the Canada - British Columbia Environmental Farm Plan program as it relates to agricultural and farming practices.	Many local governments are including this specific policy as a way of demonstrating their interest and support for environmentally beneficial farm management practices.
10. Develop zoning regulations that minimize the negative impacts of dwellings on farmland and locate them to minimize servicing costs and promote clustering.	
11. Ensure additional farmhouses are necessary for farm use or retired farmers, as permitted in Agricultural Land Commission legislation, regulations, or policies.	
12. Agricultural Development Permit Area	This tool has been used by a number of BC municipalities to provide a protective buffer around agricultural land on lands that could be further developed or subdivided resulting in a potential impact on neighbouring farming activities. In North Saanich's situation the lands surrounding much of the agricultural properties is either fully developed or already buffered by low density rural lands that cannot be further subdivided or by road right-of-ways. <u>It is not clear whether the establishment of an agricultural DPA would result in any significant protection for agriculture.</u>

JUST THE REVERSE.

DRAI

Bylaw No. 750 - The Zoning Bylaw - Adopted in 1993

The following is a point-by-point review of the Zoning Bylaw based on input received from members of the District's AAC and participants in the Agriculture Plan process. The asterisks (*) indicate elements of the bylaw that were identified as a concern by members of the District's AAC.

Division 100 - Scope and Definitions

*Farmers' Market (p.4)- Currently this definition does not support the establishment of a permanent, 4-season facility. This is because the District has only been requested for a farmers' market as a temporary use. Up until now the District has not been requested for zoning for this kind of development. *THESE HAVE TO BE AN ALLOWANCE*

Farming (p.4)- The current definition does not adequately reflect BC Assessment's definition of primary agricultural production, which is used to establish if a parcel of land can be officially classified as a farm under the BC Assessment Act, BC Assessment's definition is as follows: *WRONG TO USE THIS AS PENALTY USES THE ACC. ACT IS THE LAW.*

"For the purposes of farm classification under the Assessment Act, primary agricultural production is:

THE ACC. ACT AND REGS HAVE TO BE USED

THE ACC. ACT IS THE LAW AND HAS TO BE USED.

THIS LIST IS SUPPLEMENTARY TO THE ACC. ACT IS NOT CONSISTENT WITH THE ACC. ACTS.

THOSE ARE PERMITTED FARM USES

- o aquaculture
- o apiculture
- o Christmas tree culture (plantation and cultured native stands)
- o dairying
- o floriculture
- o forage production
- o forest seedling and seed production
- o fruit and vegetable production
- o grain and oilseed production
- o herb production
- o horse rearing
- o horticulture
- o Populus species and Salix species intensely cultivated in plantations
- o Insects raised for biological pest control
- o livestock raising
- o medicinal plant culture
- o poultry and egg production
- o seed production
- o the raising of crops or animals for food for human or animal consumption
- o turf production
- o wool, hide, feather or fur production

but does not include:

- (i) the production of manufactured derivatives from agricultural raw materials,
- (ii) primary agricultural production for domestic consumption as the farm,

!!

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² BC Assessment Act - BC Reg. 411/95 Standards for the Classification of Land as a Farm Regulation www.bclaws.ca/Recon/document/freeside/1996/05_regulations/42_411_95.html

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- (iii) the production of agricultural by-products,
- (iv) agricultural services, or
- (v) the breeding and raising of pets, except horses.³

The Corporation of Delta provides another useful example that references the ALC Act and the Minister responsible for Agriculture:

THIS IS THE WAY IT SHOULD BE.

"Farming: The use of land, buildings, and structures for any of the following:

1. growing, producing, raising or keeping animals and plants, including apiculture, poultry and the growing of mushrooms and the primary products of those plants or animals, but does not include the breeding of pets or operating a 'Kennel';
2. cultivation in plantations of any specialty wood crops or specialty fibre crops prescribed by the Minister responsible for Agriculture;
3. turf production with approval under the Agricultural Land Commission Act, if required;
4. raising or keeping of farmed game by a person licensed to do so under the Game Farm Act;
5. raising or keeping of fur-bearing animals by a person licensed to do so under the Fur Farm Act;
6. raising or keeping of exotic animals prescribed by the Minister responsible for Agriculture;
7. British Columbia licensed winery or cidery, provided that the use is in accordance with all conditions in the Agricultural Land Commission Act, as amended from time to time and all regulations or orders pursuant thereto;
8. the following farm activities to enable uses (1) to (7) above of the farm on that 'Lot':
 - a) clearing, draining, irrigating, or cultivating land;
 - b) using farm machinery, equipment, devices, materials, and structures;
 - c) applying fertilizers, manure, pesticides, biological control agents, including ground and aerial spraying; and
 - d) storage of 'Agricultural Products' and the products of 'On-farm Processing' and 'On-farm Product Preparation'.

IT FORGES THE BC ASSESSMENT ACT.
 *Produce Sales (p.10) - Term not used by the BC Assessment Act. Produce Sales could be changed to 'farm retail sales' that would make it consistent with existing BC Assessment and ALC legislation and regulation language. It is worth noting that farm retail sales can also be considered as a farm use if they are identified as a permitted use under the Agricultural Land Reserve Use, Subdivision and Procedure Regulation.⁴

CORRECT.
 Farm Use - It may be useful to identify that which qualifies as a farm use. For properties found within the ALR, the Agricultural Land Reserve Use, Subdivision and Procedure Regulation would apply.⁵

Staff Accommodation (p.12) - Good. Accommodation provided explicitly for farm workers.

³ Ibid.
⁴ Agricultural Land Reserve Use, Subdivision and Procedure Regulations, s.2(1-5) www.alc.gov.bc.ca/legislation/Reg/ALR_Use-Subd-Proc_Reg.htm#sec2
⁵ Ibid.

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Division 105 - Zoning Districts

*Zones A1 - A6 currently referred to as Rural 1 - 6. (p.14). This designation is confusing as much of the area covered by zones A1 - A3 and A6 is Agricultural land and found within the ALR. It may be useful to establish a clear distinction between the Agricultural and Rural lands in the Zoning Bylaw and associated map. ✓

Division 200 - General Regulations

202 - Agricultural Land Reserve (p.16)

This section could be expanded to provide a more comprehensive understanding of the application of the ALC Act and the extent and types of controls that the District can exercise over these lands. Deborah Curran's recent CRD Agricultural Legal and Policy Scan could be utilized to further develop this section. ✓

208 - Home Occupation Use (p.18)

Home occupation regulations apply to all properties with the appropriate zoning, not just agricultural ones. The regulations allow for small-scale commercial uses even though the properties are not zoned commercial. *I THOUGHT YOU SAID NOW ALLOWED!*

Clause (1) Horticulture is exempt from the restrictions on the maximum permitted area by the Home Occupation Regulations and the requirement that materials be stored inside. Animal husbandry or livestock rearing is not permitted as a home occupation and District is not interested in allowing them on residential properties. Animal husbandry and livestock rearing is a permitted outright use on A1-A6 zoned properties. It is useful to note that a number of Canadian and US municipalities have begun to consider the allowing the rearing of certain animals with certain well-defined restrictions.

Clause (2) The Home Occupation regulations do not allow for external storage of the materials used in the business. The on-farm storage of agricultural processing products is an allowable farm use on A1-A6 zoned properties if greater than 50% of the product is produced on the farm or is feed required for on-farm production purposes.⁶

209 - Guest/Caretaker's Cottage (p.20)

Guest/caretaker cottages are not permitted in the A1 zone. While this Regulation could provide an opportunity for on-farm labour housing District staff report that the maximum permitted size of 92 m² (990 ft²) is generally too restrictive for farmers. The ALC Act allows local governments to approve additional residences if they are necessary for farm use [s.18 (a)(1), ALC Act, 2002]. In addition, a farmer can apply to house temporary workers on A1 zoned properties. A house, rather than a small guest/caretaker's cottage, would be better suited for farm workers. A house can also be more easily and cheaply developed to meet Building Code requirements than a boarding facility for farm workers.

*Division 300 - Zoning District Schedules (p.24)

See previous comments regarding the need to differentiate between Agricultural and Rural lands in Zones A1-6.

*319 - Institutional (P-1) (p.61)

Permitted land uses could be expanded to allow for agriculture that has an educational focus. This would be slightly different from the Education and Research Facility (P3) designation.

⁶ Agricultural Land Reserve Use, Subdivision and Procedure Regulations, s.2(2c) www.alc.gov.bc.ca/legislation/Reg/ALR_Use-Subd-Proc_Reg.htm#sec2

SUBJECT TO APPROVAL

The McTavish School property is zoned P1 Institutional (and was zoned this way before the establishment of the ALR in 1974). Approximately half of the property is within the ALR. The P1 zoning is for schools as opposed to P-3 zoning for colleges and universities and currently doesn't permit agriculture. For the portion of the property in the ALR, the ALC Act would take precedent over the current zoning.

323 - Private Common Area/Open Space (P-5) (p.68)

Permitted Land Uses specifically identify ornamental landscaping. It is unclear if this zoning prohibits edible landscaping. While there may be some concerns about encouraging intensive farming in these shared areas, it may be worthwhile to provide some additional clarity within the Zoning Bylaw. It may also be helpful to note that Seattle has recently allowed the establishment of food gardens on its shared boulevard spaces.⁷

****324A - Light Industrial/Education and Research Facility (P-7) (p.71)***

This is a "specialty zone" for the University of Victoria properties along West Saanich Road. It does not allow for agricultural uses or the marketing or processing of agricultural products. However, agricultural education or research uses would be permitted.

****324B - Public Assembly Mixed Use (P-8)(p.72a)***

P8 is another "specialty zone" for one small property that is mostly paved located outside of the ALR. It was once a school but was bought by the Legion. As the membership in the Legion declined, parts of the building were sublet for uses such as jewellery assembly and shipping. The zone does not allow for agricultural uses or the selling or processing of agricultural products.⁸

****325-329 - Rural 1-5 (p.73-87)***

The bolded italicized notice for each of these zones indicate that these zones are "intended to provide regulations for land within the ALR above and beyond the regulations and provisions of the ALC Act" This is helpful but it may be helpful to explicitly reference the portion of the Act that allows the District to do this.

Further, it is worth considering if Zoning Bylaw could be used to explain or at least highlight the fact that local governments can use zoning to control the use of land, density or amount of the use, the siting of development, as well as regulate the height of buildings, type and size of signage, and parking. Land zoned for agriculture is to be used for agriculture whether or not it is in the ALR. Local governments are generally prevented from allowing non-farm uses in the ALR unless the ALC Act, regulations or orders of the ALC permit them.

Deborah Curran, a land use lawyer who specializes in agricultural land use policy, in her recent review of policies with in the Capital Regional District writes,

"Additional provincial regulations curtail and enable local government jurisdiction over land uses in the ALR. They allow land uses and activities in the ALR with restrictions, and may also enable local governments to regulate and prohibit these farm activities and uses. The most important restrictions on zoning are found in the Agricultural Land Reserve Use, Subdivision and

⁷ seattletimes.nwsource.com/html/nationworld/2009535078_parkingstrips25m.html

⁸ It is important to note that there are no zones within the District that allow agricultural processing and warehousing uses. During their recent OCP review process, Central Saanich also recognized the absence of this type of zoning within their community and committed itself to establishing agricultural industrial zoning.

SUBJECT TO APPROVAL

Procedure Regulation where section 2 designates certain uses as farm uses that can be regulated but not prohibited by local government. These include farm retail sales, wineries, cideries and ancillary uses, greenhouses, on-farm processing, storage and application of fertilizers, intensive agriculture, mushroom farming and seasonal agri-tourism (but not accommodation). Section 3 allows certain land uses that cannot be prohibited by local government, such as ecological land reserves.

Zoning provisions that support agriculture and the ALR include:

- ALL GOOD ✓
ALL AREAS ✓
THAN NS. REG ✓
NEED WORK ✓
- Large minimum lot sizes and as few zones as possible for farmland within and outside of the ALR;
 - Contiguous areas of agricultural land where other uses do not interfere with the practice of farming;
 - Suitable commercial land to accommodate the agricultural service industry in farming communities;
 - Regulation of accessory and non-farm uses on agriculture land and in the ALR (such as maximum lot coverage and the appropriate siting of buildings, driveways and parking lots close to access roads);
 - Edge planning techniques such as buffering and setbacks;
 - Specifying the type of farm and residential uses, buildings or structures;
 - Rainwater management and drainage;
 - Direct farm marketing & other agri-tourism activities;
 - Form and character of buildings to protect rural quality (such as the height of buildings); and
 - Off street loading and parking.**

If previously suggested changes to the definition of farm uses were made, the listing of permitted land uses such as farming, produce sales, horse riding stables, and nurseries and commercial greenhouses, which are allowed in zones A1-5, could be captured by the term "farm uses."

NS. ACCORD TO WORK ON THIS

Again it may be useful to explain within the Bylaw that the marketing and selling of agricultural products is permitted on ALR land. Under the Local Government Act, local governments may regulate but not prohibit farm retail sales according to the ALR Use and Subdivision and Procedure Regulation s.2.¹⁰ This regulation allows local governments to regulate the number and size of buildings dedicated for farm retail sales. This includes licensed winery and cidery operations and the associated storage, packing, preparation and processing of farm products.

An alternative to inserting explanatory statements within the Zoning Bylaw is to provide a bulletin that focuses on agriculture and land use policies within the District

336 - Rural 6 (A-6) (p.91h)

This is a special zone designed to accommodate a unique farm/processing facility. The Bylaw provides no explanation as to why this unique zone was created. Some of the uses occurring

⁹ www.crd.bc.ca/rte/documents/RTEAgriculturalLegalandPolicyAnalysis2009.pdf

¹⁰ www.alc.gov.bc.ca/legislation/Reg/ALR_Use-Subd-Proc_Reg.htm#sec2

on the property are considered to be non-farming and therefore would not normally be permitted under the ALC Act.¹¹ The owner was required to get permission from the ALC and the District created a special zone. Parking within this zone has a number of off-street parking exemptions that in all fairness should be made available to lands in the A-1 Zone.

Division 400 - Off-street Parking and Loading

**401 - Provision of Off-street Parking (p.93)*

The ALC Act allows local government to establish zoning provisions that support agriculture and the ALR including off-street parking and loading. An explanation to this effect would be helpful in this section.

**408 & 409 - Off-street Parking Requirements and Design Criteria (p.96 - 101)*

Parking requirements associated with agricultural activities should be grouped together. While it may be useful to require different off-street parking spaces for different activities it may be worthwhile to reconsider the current requirements. A more comprehensive discussion and consideration of parking as it relates to and presumably supports agricultural activities and land uses is recommended. This discussion should consider the potential alienation of productive land by current parking requirements. Other considerations include reducing the permanent nature, and impact that parking facilities have on productive land and the rural countryside (i.e. impermeable asphalt parking surfaces, permanent parking elements such as curbs, gutters and fences, and overhead lighting). The reduced parking requirements in the A-6 zone suggest that these discussions may already have taken place.

**410 - 416 - Off-street Loading (p.101-104)*

It is unclear from the Zoning Bylaw if the off-street loading requirements apply to farming activities. If they do, exceptions to the surfacing requirements should be allowed to prevent unnecessary establishment of impermeable surfaces on farmland.

Additional Zoning Issues

Potential issues identified by staff but not captured by this initial review include the following:

- Roadside stands - Should the distance to lot lines be reduced from the 7.6 metres currently required? Should the setback be based on the sizes of the stand?
- Greenhouses - Should poly-tunnels be exempt from setback requirements? There are increasing concerns about their size and safety.
- Manufactured homes - Currently one manufactured home per property is allowed within the ALR as an additional residence but the District's Zoning Bylaw does not permit manufactured homes in any zones. In the A-1 zone, the District does allow a second house for farm help but the ALC does not allow the second house without an application for non-farm use. Should the District consider allowing manufactured homes on A-1 properties to make it easier for farmers to have a second residence?

The District is interested in hearing how these issues might be dealt within the Zoning Bylaw so that they address public safety and aesthetic concerns but do not unduly impact agricultural activities.

¹¹ The facility mixes and packages herbs and spices that are not produced on the property. They also ship kitchen supplies.

BUY SOME OF IT IS.

Zoning Bylaw Review

Good
It appears that most of the content of the Zoning Bylaw is not in conflict with current provincial legislation. However, it may be useful to improve the clarity and consistency of the language used in the Bylaw so that it clearly indicates its connection to overarching provincial legislation. These changes may help to allay concerns raised by a few members of the Agricultural Advisory Commission (AAC) who feel that the District's Zoning Bylaw is in conflict with overarching legislation like the Agricultural Land Commission (ALC) Act.

* It may be helpful to adjust the titles of A1- A6 zones so they more accurately reflect the land use designations described in the OCP. While we appreciate the rationale for distinguishing between Agricultural and Rural land uses in the OCP, given the requirements of the ALC Act, the primary use of lands in the ALR is agriculture and should be reflected in the zoning designation. In general, rural designations should be applied to rural-type lands found outside of the ALR. The use of the term Rural for all lands zoned A1-6 is confusing. It may be worthwhile at some point in the future to change the zoning designations to better reflect whether or not the properties are within or outside of the ALR. *Good*

* It is worth noting that zoning bylaws in general are legally prescriptive and therefore often difficult to read, much less understand. Almost all of the concerns identified by members of the public and District's AAC, were with the Zoning Bylaw. This suggests that it may be helpful to hold a workshop focused on the Zoning Bylaw with District AAC and staff members and key personnel from the Ministry of Agriculture and Lands and the Agricultural Land Commission. This workshop would provide the opportunity to develop a better collective understanding of the Zoning Bylaw and its administration by the District, and collectively identify potential improvements that would improve conditions for local agriculture and food production. The results of this workshop would be incorporated into

most important.

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