

**REPORT TO THE JUAN DE FUCA LAND USE COMMITTEE
MEETING OF TUESDAY, JULY 8, 2008**

SUBJECT

REZONING AMENDMENT APPLICATION Z-02-08 – 2707 ANDERSON ROAD

PURPOSE

That the Land Use Committee consider an application to amend Sooke Land Use Bylaw (Bylaw No. 2040) to rezone the subject property, Lot A, District Lot 39, Malahat District, Plan VIP71814, from Forestry (AF) to Rural (A) zone for the purpose of permitting agricultural uses and associated buildings.

BACKGROUND

The subject property is located at 2707 Anderson Road in Otter Point (Attachment 1). The 4.0 ha (9.88 acre) property is zoned Forestry (AF) allowing one one-family dwelling, silviculture uses and a minimum lot size of 120 ha (296.5 acres). The applicant is requesting to re-zone the property to Rural (A) zone to allow agricultural uses and associated farm buildings with living space for farm workers. The Rural (A) zone permits a density of 4 dwellings on the 4.0 ha lot, two boarders or lodgers, agricultural uses, associated farm buildings for storage and livestock, and a minimum lot size of 4.0 ha (9.88 acres) (Attachment 2).

The property is currently being operated as a small-scale farm for growing vegetables and fruit for local markets (Attachment 3). An accessory building, not serviced by water or septic, was constructed on the property in 2004 for use as an office (Attachment 4); greenhouses and a small storage building also exist on the property. The owners now wish to expand agricultural production and request the rezoning to allow additional farm buildings and two dwellings to be constructed. However it is noted that the proposed zoning may permit up to 4 dwellings to be constructed subject to confirmation that the parcel is greater than 4.0 ha and proof of water and sewage disposal as part of the building process.

ALTERNATIVES

1. Proceed with referral of the application and proposed bylaw amendment to The Sooke Land Use Bylaw to agencies for comment.
2. Deny the application and do not proceed with referral.

LEGISLATIVE IMPLICATION

Pursuant to Section 879 of the *Local Government Act*, an amendment to a zoning bylaw requires that local governments provide one or more opportunities for consultation it considers appropriate to persons, organizations and authorities the local government considers may be affected by the adoption, repeal or amendment of a zoning bylaw. Generally, the decision on which bodies are consulted must be recommended to the Board by the Committee and occur at the time the application is considered for approval and introduced as a proposed amendment bylaw at first reading. However, through Bylaw No. 3166 – A Bylaw to Establish the Juan de Fuca Land Use Committee, the Board delegated the authority under Section 879 to the Land Use Committee.

Specific consideration must be given to referring the proposed amendment to the adjacent regional districts or municipalities, and First Nations. Consideration should also be given to referring the proposed amendment to improvement districts and applicable Provincial and Federal agencies. Pursuant to Section 881 of the *Local Government Act*, a proposed amendment to a zoning bylaw must also be referred to the School District. Where an amendment or new land use and subdivision bylaw will apply to

land within 500 metres of a controlled access highway, the bylaw must be referred to the Ministry of Transportation for approval.

Consultation under the above noted sections of the *Local Government Act* must occur prior to the requirement under Section 882 (3) (d) to hold a public hearing as part of the amendment process.

Staff recommendation includes a referral to the Otter Point Advisory Planning Commission and the newly created Juan de Fuca Agricultural Advisory Planning Commission.

PLANNING ANALYSIS

The subject property is currently being operated as a small-scale farm, providing vegetables and fruits to local markets. In 2004, a small yurt-style accessory building was constructed for use as an office. The farm operation has proven successful and the applicants are proposing to rezone the property from its original use, Forestry (AF) zone to Rural (A), in order to permit possible expansion of agricultural uses as well as additional dwellings and farm buildings to be constructed.

The Rural (A) zone permits 4 houses on the above property. However, the applicants are proposing to initially construct one house and one small cabin for the purpose of living on-site and for providing additional accommodation to farm workers. The number of dwelling units permitted could be limited by a restrictive covenant.

The applicants propose rezoning to the Rural (A) zone to allow for future expansion if necessary. Alternatively, the Agriculture (AG) zone permits only one house and an additional dwelling specifically for housing employees where the land is classified as 'farm' under the property assessment and is greater than 4.0ha. Other Rural Residential zones permit agriculture and a two family dwelling but do not permit multiple houses. Agriculture (AG) zoned lands within the Juan de Fuca Electoral Area are generally lands within the Agricultural Land Reserve (ALR). The property is not within the ALR; however, the proximity of ALR lands to the south is quite close (Attachment 5).

The proposed rezoning serves to preserve large lots and the rural character of the area. The intended agricultural use of the property adds value to the community with respect to economic development and environmental protection. There has been a recent initiative by the JdF Land Use Committee to support and encourage agricultural endeavours in the JdF area. Staff therefore recommend that the application be referred to relevant agencies, including the newly established Agricultural Advisory Planning Commission and the Otter Point Advisory Planning Commission, for consideration.

PUBLIC CONSULTATION IMPLICATIONS

The CRD's Bylaw No. 3110, Fees and Procedures Bylaw, states that the Board at any time may refer an application to an agency or organization for their comment. However, despite the decision of the Board to refer or not refer an application to an agency or organization for their comment, the referral requirements as set out in the *Local Government Act* must be met for the bylaw to be valid. Consultation under the *Local Government Act* must occur prior to the requirement under Section 890 (1) to hold a public hearing as part of the amendment process.

The Otter Point Advisory Planning Commission and the Agricultural Advisory Planning Commission are established to make recommendations to the Land Use Committee on land use planning matters referred to them relating to Part 26 of the *Local Government Act* in the Otter Point and to address agricultural initiatives in the Juan de Fuca Electoral Area. Therefore, based on the established purpose of these Committees, it would be advisable to refer applications to these bodies. Advisory Planning Commissions typically receive applications prior to consideration by Committees as their role is to provide advisory recommendations.

The application will also require circulation to other departments within the CRD for consideration.

Should the proposal proceed, a public hearing will be required subsequent to the amendments passing second reading by the Capital Regional District Board which will be advertised in the local paper and on the website. Properties within 500 m of the subject property will be sent a notice of the proposed bylaw amendments.

The applicants have circulated a letter to the neighbourhood advising of the proposed development plans and requesting support for their rezoning application (Attachment 6).

REGIONAL GROWTH STRATEGY IMPLICATIONS

In the evaluation of the zoning amendment, consideration must be given to the Capital Regional District's Regional Growth Strategy policy. The application will be referred to the CRD Regional Planning for comment on possible implications.

SUMMARY/CONCLUSIONS

The applicants have applied for an amendment to the Sooke Land Use Bylaw (Bylaw No. 2040) for the purpose of rezoning the subject property from Forestry (AF) to Rural (A). Since 2004, the property has operated as a small-scale farm producing vegetables and fruits; an office and associated greenhouses currently exist on the property.

The Forestry (AF) zone does not permit agriculture or related farm buildings, so the applicants are therefore limited in expanding their existing farm operation and only one dwelling unit is permitted. They are proposing a rezoning to Rural (A) zone in order to permit additional dwelling units on the property. Initially, the applicants wish to construct a residence and a small cabin for the purpose of housing employees. Two boarders or lodgers would be permitted. The Rural (A) zone also permits farm buildings for storage of materials and livestock. Staff recommend that the Land Use Committee consider referring the rezoning proposal to public agencies for comment.

RECOMMENDATION

That the Land Use Committee recommend that staff be directed to refer the July 8, 2008 staff report for Lot A, District Lot 39, Malahat District, Plan VIP7181 to the following agencies for comment:

Otter Point Advisory Planning Commission
Ministry of Highways
T-Sou-ke First Nation
School District #62

Otter Point Fire Department
CRD Regional Planning Division
RCMP
Agricultural Advisory Planning Commission

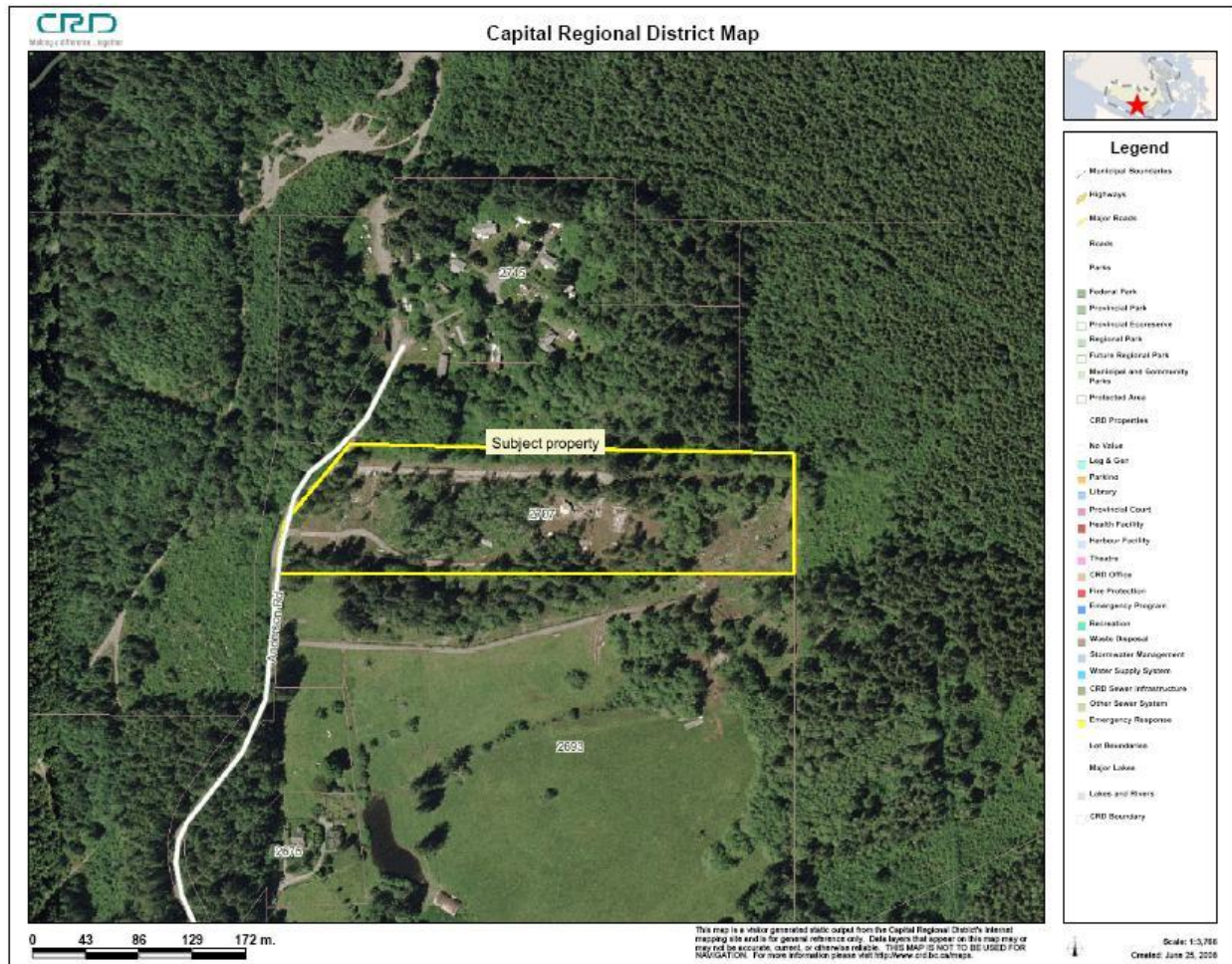
Kris Nichols, MCIP
Manager, Local Area Planning

Robert Lapham, MCIP
General Manager,
Planning & Protective Services
Concurrence

Attachments:

1. Location
2. Rural (A) zone
3. Site Plan
4. Survey
5. Location of ALR and Farmland Protection DP Areas
6. Letter to neighbours

Attachment No. 1: Location



Attachment No. 2: Rural (A) zone

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2.0 RURAL ZONE - A

2.01 Permitted Uses

In addition to the uses permitted by Section 4.15 of Part 1 of this Bylaw, the following uses and no others shall be permitted in the Rural A Zone:

- (a) Agriculture;
- (b) Intensive Agriculture, except that sites for piggeries, fur farming and other similar agricultural, horticultural and animal raising activities in which the intensity and nature of the use would be materially more offensive by reason of noise, odour or appearance shall be located at least 150 m from the nearest Residential or Multiple Family Residential Zone;
- (c) Silviculture
- (d) Home Occupations Categories One, Two and Three;
- (e) One-family dwelling;
- (f) Two-family dwelling;
- (g) Animal Hospitals;
- (h) Veterinary Clinics;
- (i) One travel trailer or one camper may be permitted in conjunction with a permitted residential use on a lot, which may be used but not rented for the temporary accommodation of guests or visitors;
- (j) Two Boarders or Lodgers;
- (k) Accessory uses such as on-site logging, and pole- or post- or shake-cutting from trees grown on-site;
- (l) Finfish culture, land-based;
- (m) One secondary suite per lot pursuant to Part 1, Subsection 4.19. *Bylaw 2674*

2.02 Minimum Parcel Size for Subdivision Purposes

- (a) The minimum parcel size shall be 4.0 ha (9.88 acres);
- (b) For the purposes of Section 946(4) of the *Local Government Act*, the minimum parcel size shall be 4.0 ha (9.88 acres)
- (c) For the purposes of this subsection, "parcel" includes a lot created by deposit of a strata plan under the *Strata Property Act* (British Columbia)

Bylaw No. 3474

2.03 Number of Dwelling Units

The maximum density for residential buildings (comprised of one- and/or two-family dwellings) shall not exceed the following:

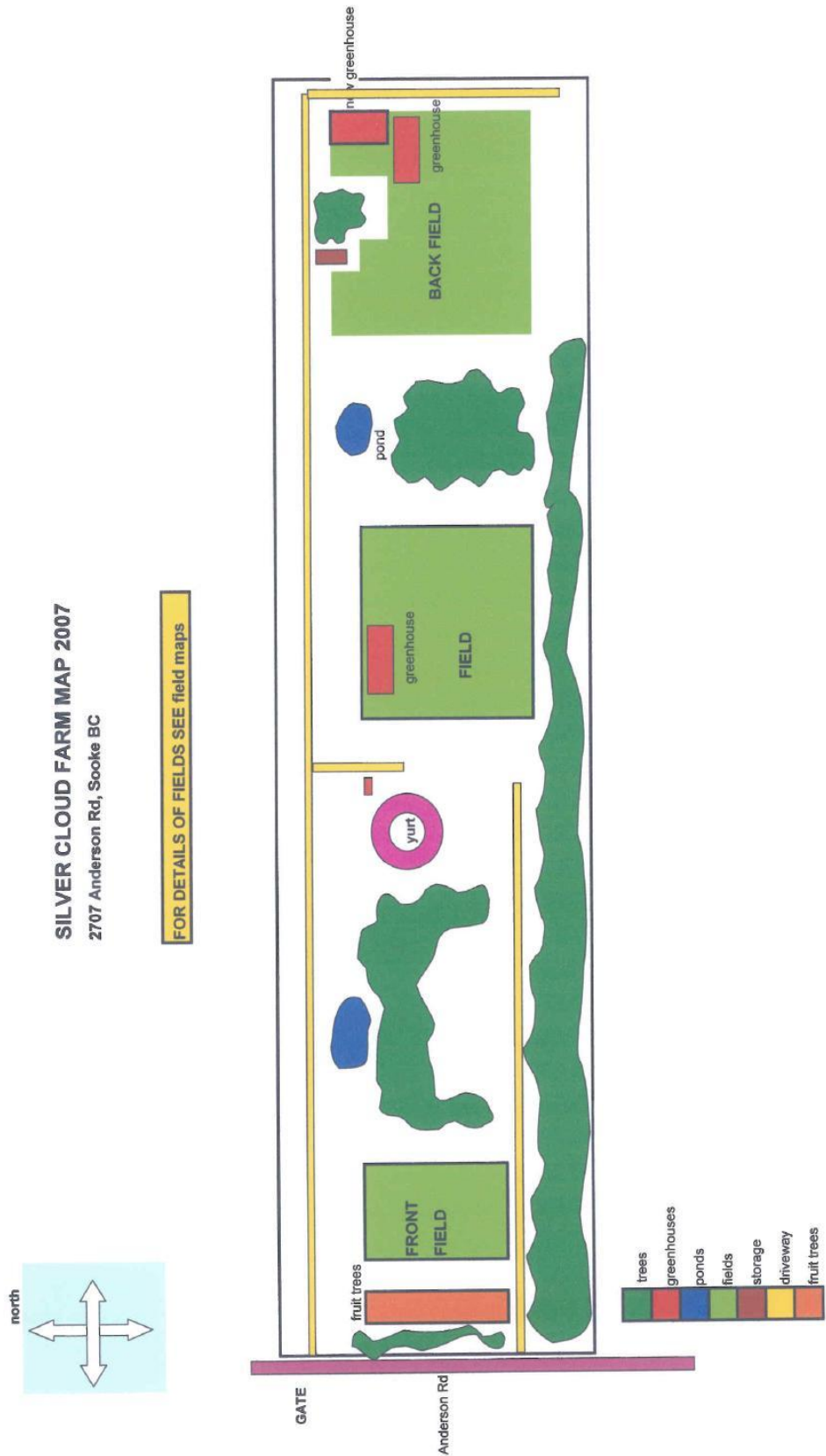
- (a) On lots of 0.4 ha or less, one one-family dwelling;
- (b) On lots of more than 0.4 ha and less than 0.8 ha, not more than two one-family or one two-family dwelling;
- (c) On lots of more than 0.8 ha and less than 4 ha, not more than three one-family dwellings or three dwelling units;
- (d) On lots of more than 4 hectares, not more than four one-family dwellings or four dwelling units; *Bylaw No. 3474*

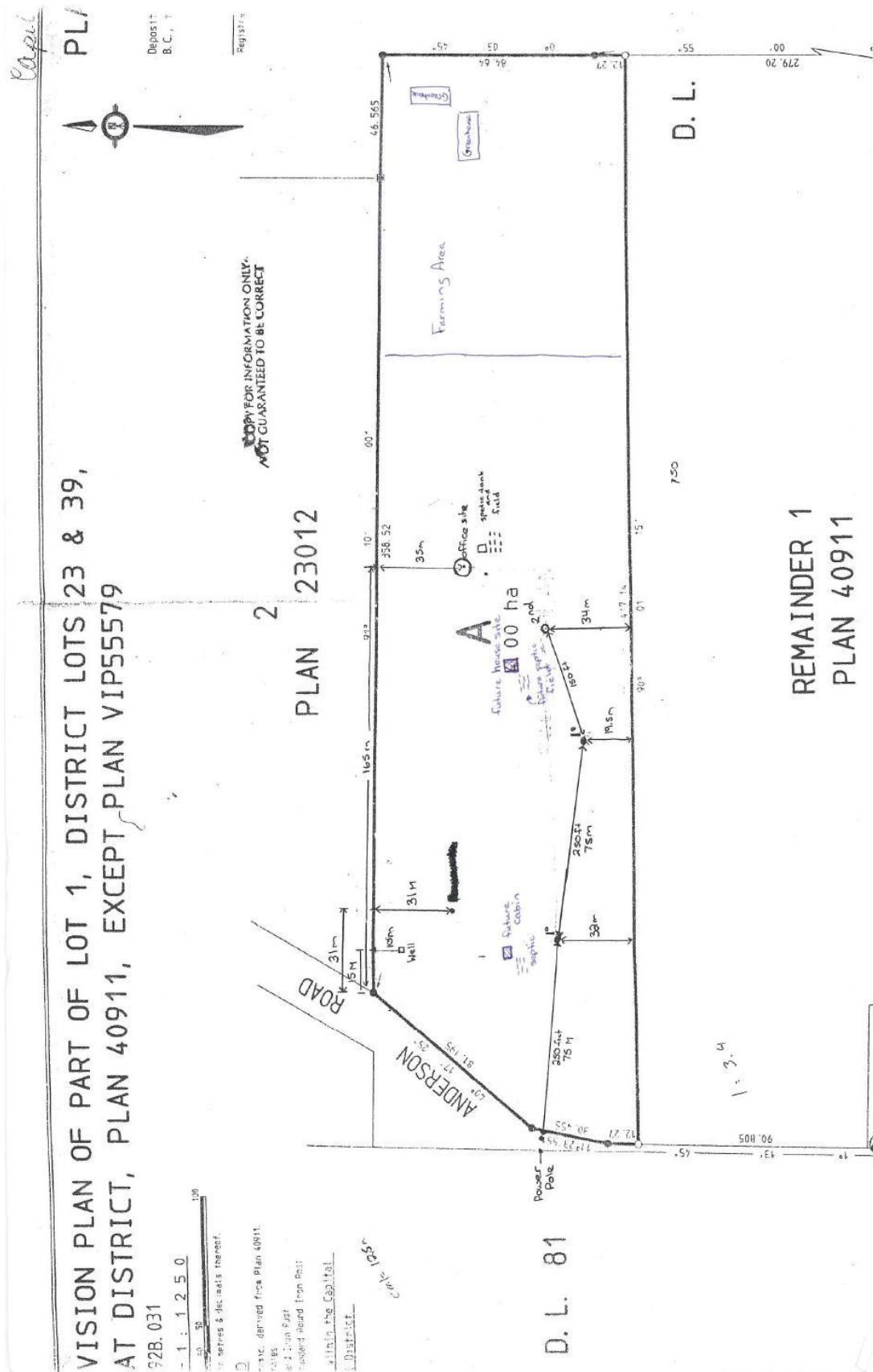
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| 2.04 | <u>Height</u> | The maximum height permitted shall be 11 m. |
| 2.05 | <u>Lot Coverage</u> | The maximum lot coverage permitted shall be 15 percent. |
| 2.06 | <u>Maximum Size of Residential Buildings</u> | <p>Provided that percolation and septic field requirements are met to the satisfaction of the Medical Health Officer:</p> <ul style="list-style-type: none">(a) On lots of less than 1 ha in area, residential buildings and structures shall not exceed a Floor Area Ratio of 0.45 or a Total Floor Area of 418 m², whichever is less;(b) On lots of 1 ha or more in size, residential buildings and structure shall not exceed a Floor Area Ratio of 0.45. |
| 2.07 | <u>Yard Requirements for Residential Buildings</u> | <ul style="list-style-type: none">(a) Front yards shall be a minimum of 7.5 m;(b) Side yards shall be a minimum of 6 m except for lots of greater than 1 ha in size and where residential uses exceed a Total Floor Area of 418 m², minimum side yards shall be 15 m each side;(c) Flanking yards shall be a minimum of 6 m CTS;(d) Rear yards shall be a minimum of 11 m. |
| 2.08 | <u>Yard Requirements for Farm Buildings</u> | <ul style="list-style-type: none">(a) Front yards shall be a minimum of 30 m;(b) Side, flanking and rear yards shall be a minimum of 15 m. |
| 2.09 | <u>Yard Requirements for Finfish Culture, Land-Based Uses and Structures</u> | Front, side, flanking and rear yards shall be a minimum of 30 m. |
| 2.10 | <u>Yard Requirements for Intensive Agriculture Uses and Buildings</u> | <ul style="list-style-type: none">(a) Front yards shall be a minimum of 30 m;(b) Side, rear and flanking yards shall be a minimum of 30 m. |

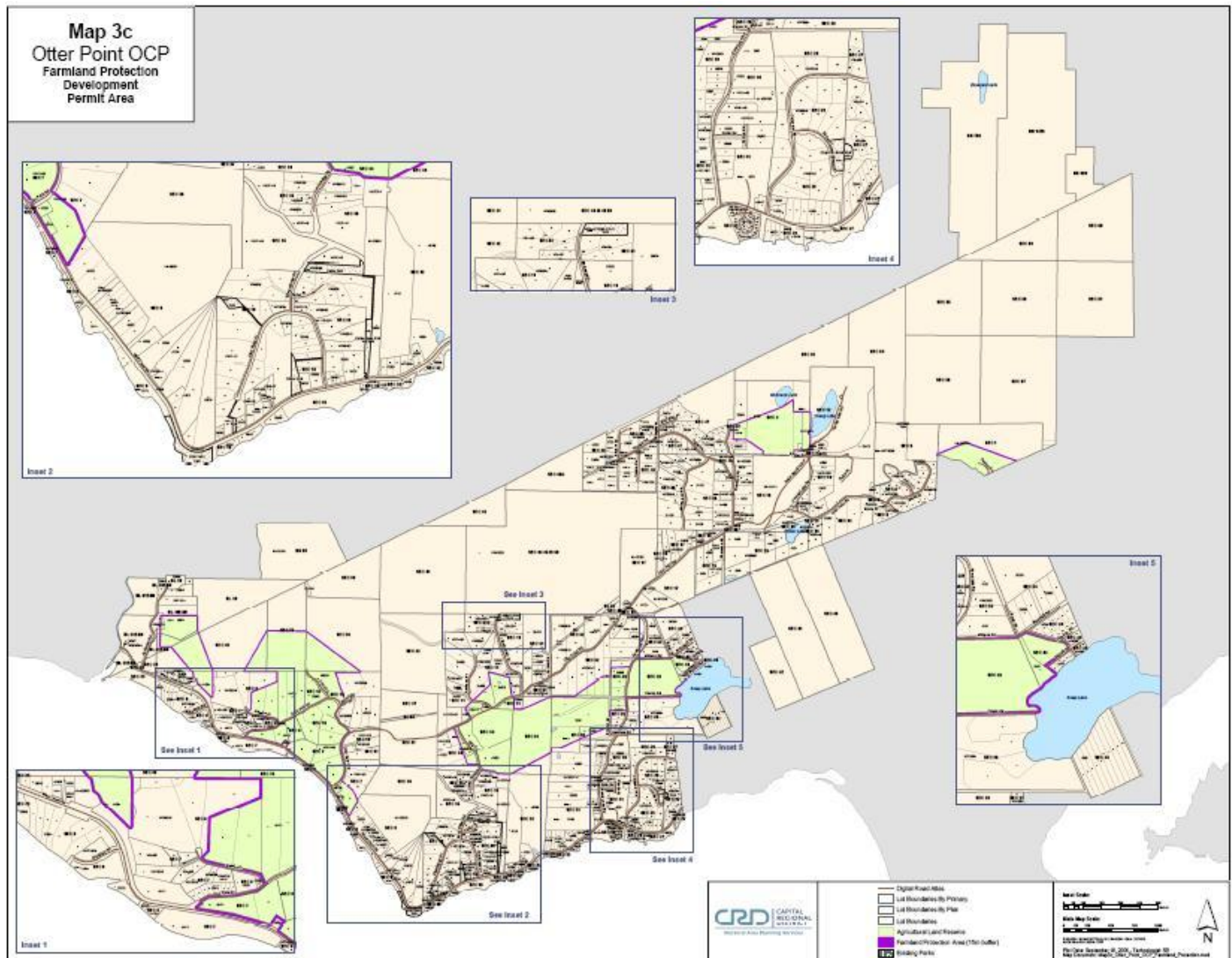
Bylaw 2103

Attachment No. 3: Site Plan





Attachment 5: Location of ALR and Farmland Protection DP Areas



Attachment 6: Letter to neighbours

Dear Neighbours,

We are writing you in regards to a proposed zoning change to our property at 2707 Anderson Rd. We are currently zoned Forestry and would like to rezone it to Rural A (farming). Our current Forestry Zoning doesn't fit our long term vision of our property's use as a small production certified organic vegetable farm.

We currently have about 1+ acres out of 10 acres as intensive vegetable production which may increase slightly over the years. Currently within this foot print is 3500 sq. ft of green house space where we produce winter crops and summer heat loving fruits and vegetables. 100% of this produce gets sold at the local farmers markets and to a small scale weekly food box program sold to area residents.

How will our property change over the next few years? We anticipate building a 1200 sq house for myself and Teresa set 200m off the road access and a small 5-700 sq. ft. cabin (70 m. off the road) for full or part time farm help. We deem the impact and changes to the property and neighborhood overall as modest and non intrusive. Our intention is to leave the forest we have standing, and use the areas already cleared. We respect and enjoy the diversity of wildlife that lives in the forested sections of Anderson Rd.

Our impact to Anderson road usage may increase by one vehicle, but, seeing as the resident of the cabin will be working on the farm, the commuting will be at a minimum.

We hope that what we bring to our neighborhood is positive and adds to the enjoyment of living in this area. We appreciate your support in both our business and friendship.

Sincerely,
Matt Robertson & Teresa Willman
Silver Cloud Farm
2707 Anderson Rd.
250 642 4516

Do you support our process?

Name _____

Address _____

Yes

No

Comments – please continue on back if necessary