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**REPORT TO JUAN DE FUCA AGRICULTURAL ADVISORY PLANNING COMMISSION
MEETING OF MONDAY, JULY 28, 2008**

SUBJECT **AGRICULTURAL LAND RESERVE APPLICATION FOR EXCLUSION OF LOT 1, SECTION 7,
OTTER DISTRICT, PLAN 22721 (ALR-02-08)**

PURPOSE

The purpose of this report is to consider the application to exclude the above property from the Agricultural Land Reserve and request a recommendation to the Juan de Fuca Land Use Committee.

HISTORY/BACKGROUND

The above mentioned property is located at 8652 West Coast Road (Attachment 1). The 0.39 ha (0.97 acre) property is zoned Agriculture (AG) and is within the Agricultural Land Reserve (ALR) (Attachment 2). The Agriculture (AG) zone is typically used for all lands within the Agricultural Land Reserve and permits uses in support of the ALR. The zone permits one one-family dwelling; however, there is one legal dwelling on the property and four legal non-conforming houses that were constructed in approximately the 1960s. Each dwelling is serviced by an individual septic field; however, the houses share a common water supply. Two small accessory buildings have also been erected. An addition to an accessory building was recently constructed without benefit of a permit and a stop work order has been issued. The applicant's intention is to exclude the property from the ALR and to rezone the property to permit the creation of 5 lots, each approximately 0.078 ha (0.19 acres) in size (Attachment 3) or to permit the 5 dwellings to remain legally on the lot. The intent of the subsequent rezoning would be to legalize the four legal non-conforming dwellings.

Adjacent properties to the north, east and west are also within the ALR and zoned Agriculture (AG). The subject property historically has not been used for agricultural purposes. It also appears that the surrounding ALR lands are also not utilized for agriculture. The waterfront property to the south is locally known as Gordon's Beach and is zoned Gordon's Beach Recreation Residential 4 zone (R-4). It is a high-density property with several legal non-conforming residential dwellings.

There are 307 ha (758.7 acres) of Agricultural Land Reserve land within the Otter Point Official Community Plan area which is 9% of the plan area. The OCP states that "*it is imperative that this land be protected for current and future agricultural activities.*" Development policies, as stated in the OCP, recommend that "with all development, care must be taken to minimize the impact on the natural environment, the existing neighbourhoods and any ALR designated land." Development within 15 m (50 ft) of ALR lands is designated a Development Permit Area No. 4: Protection of Farming. This buffer ensures that "*adjacent land uses do not interfere with the functioning of normal farm operations and will help mitigate potential conflicts between adjacent uses. Retaining the viability of these lands for agriculture is important in terms of providing local food security and economic diversity but also in terms of preserving valuable rural landscapes for the community.*"

Individuals make application to exclude land from the ALR through the local government. This procedure allows the local government an opportunity to make comments and recommendations on a proposal prior to consideration by the Agricultural Land Commission (ALC). If the land under application is zoned for agricultural or farm use, or requires a bylaw amendment, the local government Board or Committee can decide whether to authorize the application to proceed to the ALC. The local government may refer the application to various committees and may hold a public information meeting before referring the application to the Board. In this case, the application is to be reviewed by the Agricultural Advisory Planning Commission (AAPC).

ALTERNATIVES

- 1) Recommend to the Juan de Fuca Land Use Committee to approve the request to exclude the property from the ALR.
- 2) Recommend to the Juan de Fuca Land Use Committee to deny the application to exclude the property from the ALR.
- 3) Request additional information be provided regarding the application.

PLANNING ANALYSIS

The applicant is proposing to exclude the subject 0.39 ha (0.97 acre) property from the Agricultural Land Reserve in order to rezone the property to permit the retention of 5 dwellings legally either through a subdivision or creation of a zone that permits 5 dwellings. The Agriculture (AG) zone permits only one dwelling on the property and the density of the subject lot greatly exceeds what is permitted by the zoning bylaw. There is one legal dwelling and four legal non-conforming dwellings on the property dating back to approximately the 1960s. The property has been used primarily for residential purposes since that time. The property is bordered by ALR land to the north, east and west; however, these lands are not utilized for agricultural purposes. The waterfront property to the south is a high-density residential property with several legal non-conforming dwellings. The applicant has not provided any supporting documentation regarding the agricultural capability of the land but suggests the land is not suitable for agriculture due to the rocky soils, bedrock substrate and proximity to the ocean. The parcel in question, being 0.39 ha (0.97 acres), is limited in terms of its agricultural capabilities and, given that historically it has 5 dwellings on it, the potential for agricultural use of the parcel is limited.

The Otter Point Official Community Plan policies serve to protect lands within the ALR for current and future agricultural activities and establishes a 15 m Development Permit Area around ALR lands to protect them from development. The subject property is designated as being within the ALR in the Otter Point OCP and is zoned Agriculture (AG) in the Sooke Land Use Bylaw, 1992. Should the application to exclude the land from the ALR be approved, subsequent amendments to the OCP and Land Use Bylaw would be required to facilitate the changes the owner is proposing.

LEGISLATIVE IMPLICATIONS

The Agricultural Land Commission requires local governments to file a recommendation regarding the exclusion of land from the Agricultural Land Reserve.

Should the application to exclude the land from the ALR be approved, subsequent amendments to the Otter Point Official Community Plan and the Sooke Land Use Bylaw will be required to remove the ALR designation from the subject property, to alter the Development Permit Area No. 4: Protection of Farming buffer and to rezone the property from Agriculture (AG) zone to a residential zoning designation.

PUBLIC CONSULTATION IMPLICATIONS

The Agricultural Land Commission requires a recommendation from local governments regarding applications to exclude land from the Agricultural Land Reserve. Applications are considered at public meetings, in this case the Agricultural Advisory Planning Commission and the Juan de Fuca Electoral Area Land Use Committee (LUC).

As part of the Agricultural Land Commission's requirements for removal of lands from the Agricultural Land Reserve, the owner is required to notify adjacent land owners, post a notice in the local paper and post a notice of intent on the property.

SUMMARY/CONCLUSIONS

The subject property is located within the Agricultural Land Reserve and the owners are proposing to exclude the land from the reserve. Should the exclusion application be approved by the ALC, the owners wish to rezone the property to permit a 5 lot subdivision that would legalize the four legal non-conforming dwellings.

The property is used primarily for residential purposes and the density exceeds what is permitted by the bylaw due to the existence of one legal dwelling, four legal non-conforming dwellings and two accessory buildings. Each dwelling is currently serviced by an individual septic field; however, some of the houses share a well. The owners have not provided information regarding the agricultural potential of the property; however, the applicant suggests the soils are rocky and not suitable for agriculture. Given that the lot is less than an acre in size and has historically had 5 dwellings on it since the 1960s, the agricultural potential is limited.

RECOMMENDATION(S)

Staff recommend that the Juan de Fuca Electoral Area Agricultural Advisory Planning Commission consider the proposal to exclude land from the Agricultural Land Reserve on Lot 1, Section 7, Otter District, Plan 22721 (ALR-02-08) and make a recommendation to the Juan de Fuca Electoral Area Land Use Committee.

Kris Nichols, MCIP

Manager, Local Area Planning

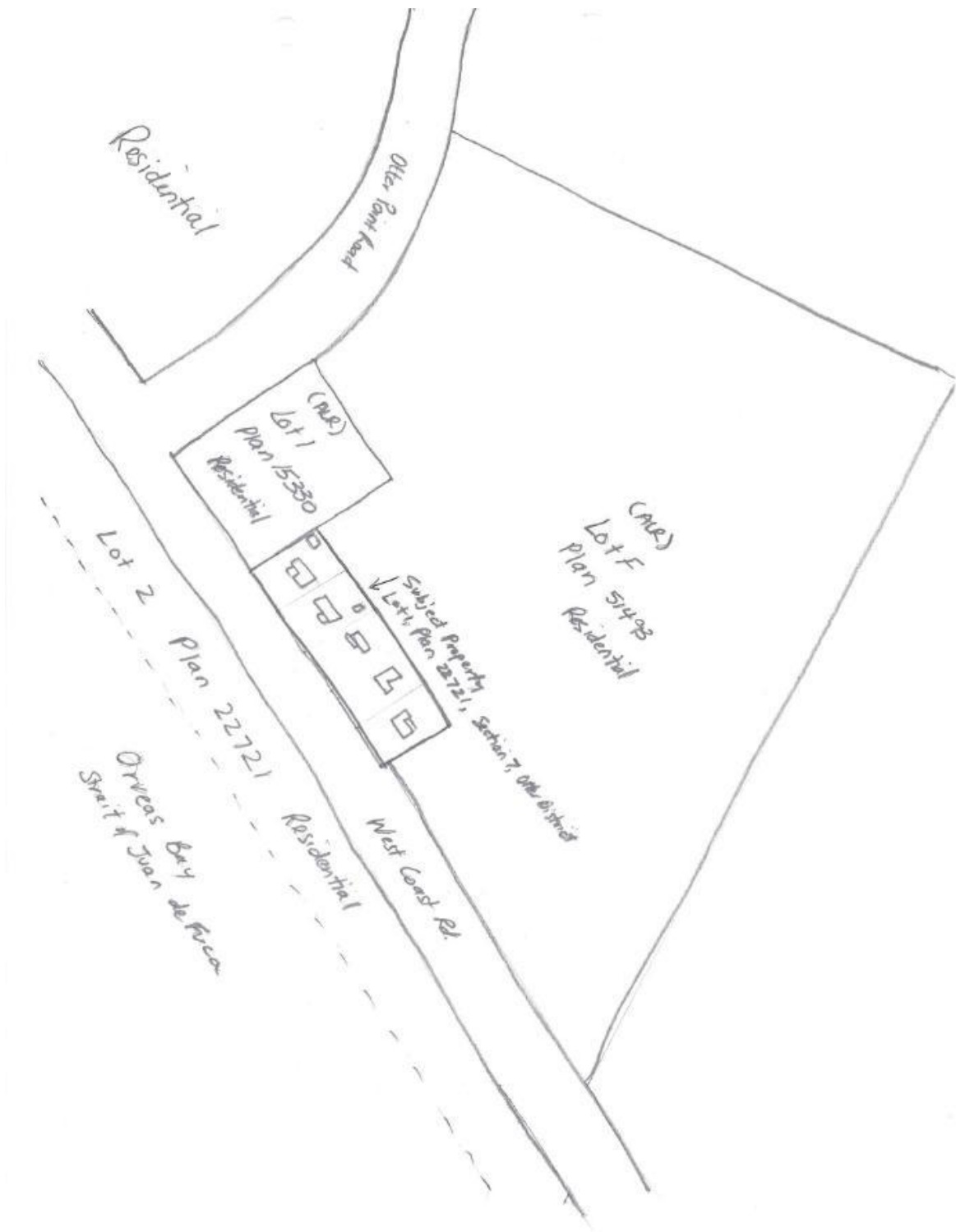
Attachments:

- 1: Location
- 2: Site plan
- 3: Photos

Attachment 1: Location



Attachment 2: Site Plan



Attachment 3: Photos

