



Agricultural Land Commission
133-4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604-660-7000
Fax: 604-660-7033
www.alc.gov.bc.ca

November 16, 2007

Please reply to the attention of Roger Cheetham

Erik Lund, Director, Juan de Fuca Electoral A
Capital Regional District
2-6868 West Coast Road
Sooke, BC V0S 1N0

Dear Sir:

Re: Proposed Amendment to Official Community Plan for East Sooke – Amendment Bylaw No. 3434 and
Proposed Amendment to Sooke Land Use Bylaw - Amendment Bylaw No. 3435.

Our Refs: C – 35529; C – 30637; C – 26508; C – 36733
Your Refs: CRD Z – 10 – 06; ALR – 02 – 05 and ALR – 02 – 04

We would like to thank you for the copy of your letter dated October 24, 2007 that was sent to Bert van Dalfsen of the Ministry of Agriculture and Lands. In reply, we wish to add the following comments to those that were made in our letter dated September 21, 2007.

The Agricultural Land Commission Act (the Act) requires that local governments must ensure that all municipal bylaws are consistent with the Act. Thus, in the Commission's view, such bylaws must generally permit all farm activities as defined in the Act and regulations within the ALR that are conducted in accordance with recognised codes of practice. We understand that the proposed Rural Zone – A imposes limitations on agriculture and accordingly if so the Commission would be opposed to this zone.

The situation with regard to the proposed DPA is less clear-cut. As pointed out in our previous letter there are good reasons for the use of a DPA at the ALR interface. This is not only from the point of view of protecting agriculture. It is also, bearing in mind the many forms of agriculture that could potentially occur within the ALR, from the point of view of protecting development adjacent to agriculture. The Commission thus strongly supports the use of the DPA and believes that the Board took a positive step in including the DPA provision in this and other recently adopted OCPs in the district. Notwithstanding these views, the Commission does not take the position that the DPA is essential to ensure consistency with the Act and would not oppose its removal from the three properties affected by the recent inclusion should the Board so decide.

Our review of the DPA does not suggest that it will result in the imposition of any major constraints on the use of the land affected by the DPA and it is believed that it might be possible for the issues raised by Jennifer Paulus in her e-mail correspondence and telephone conversation with Roger Cheetham to be resolved without the elimination of the DPA.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Erik Karlsen, Chair

Cc: Bert van Dalfsen, Ministry of Agriculture and Lands
Rob Kline, Regional Agrologist, Victoria
Kris Nichols, Manager, Local Area Planning, CRD

RC/lv/Encl./35529m2

Page 2 redacted for the following reason:

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September 21, 2007

Please reply to the attention of Roger Cheetham

Erik Lund, Director, Juan de Fuca Electoral A
Capital Regional District
2-6868 West Coast Road
Sooke, BC VOS 1N0

Dear Sir:

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Our Refs: C – 35529; C – 30637; C – 26508; C – 36733
Your Refs: CRD Z – 10 – 06; ALR – 02 – 05 and ALR – 02 – 04

We would like to thank you for the copy of your letter dated 7th September 2007 that was sent to Bert van Dalfsen of the Ministry of Agriculture and Lands, in response to which we comment as follows.

In a letter to the Capital Regional District dated 18th February, 2002 (copy enclosed), in response to the referral of proposed amendments to the Sooke OCP and Sooke Land Use Bylaw relating specifically to the Silver Spray Lands, the Commission commented on the need for special care to be exercised at the ALR interface. It suggested that the DPA provisions that specifically related to the Silver Spray property be expanded to include appropriate measures for the protection of farming. Extracts from the City of Surrey's OCP were enclosed as an example of how a DPA for the Protection of Farming might be drafted.

The Commission was accordingly pleased to note that DPA provisions for the protection of farmland had been included in the new plan for East Sooke and that these provisions also appeared in the OCPs for Shirley/Jordan River and Otter Point. In a letter dated 12th July 2006 the Commission specifically commended the regional district on the inclusion of these provisions.

In this light the Commission is concerned that the Land Use Committee has passed a motion reducing the DPA for the protection of farm land from 30 metres to 15 metres in the East Sooke OCP and that, further, the committee has suggested that the DPA be removed in its entirety for the three lots affected by the recent exclusion and inclusions from the ALR in terms of Commission resolutions 187/2006 and 413/2006.

...2

There has been a growing awareness, particularly in the last 10 years, of the need, especially in the more urbanised and urbanising areas of the province to ensure that measures are put in place to reduce the potential for conflicts at the agricultural/urban interface. This is necessary from the point of view of the residents that live adjacent to the boundary whose enjoyment of their property could be affected by the agricultural activities being carried on across the boundary. It is also necessary to protect the farmer from impacts on farm land caused, *inter alia*, by trespass and conflicts between domestic and farm animals. These conflicts are heightened as density increases and agriculture intensifies.

There are several publications that are helpful in understanding these issues, all of which can be found on the Commission's web site at www.alc.gov.bc.ca. These include:

- Planning Subdivisions Near Agriculture (a copy of this document is enclosed)
- Subdivision Near Agriculture – A Guide for Approving Officers
- Planning for Agriculture Chapter 8 – Planning along Agriculture's Edge

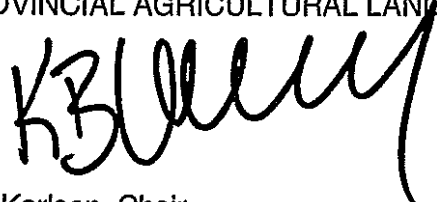
In this light we strongly urge the Land Use Committee to reconsider its position with regard to the DPA with a view to maintaining the 30m meter buffer and to applying it to all properties adjacent to the ALR. In the Commission's opinion, the use of the DPA will not result in any major impediments being placed on the development of the properties adjacent to the ALR boundary and should not be considered as an onerous and unjustified requirement. Rather it will help ensure that conflicts at the interface will be minimized, to everyone's benefit including the owners of adjoining residential properties.

Turning now to the proposed amendment to the land use bylaw we note that it is intended that part of Lot 1, Section 88 be zoned as Rural Zone – A within which we understand some limitations are placed on agriculture. We draw your attention to Section 46 (2) of the *Agricultural Land Commission Act* (the Act) which requires that local governments ensure that all bylaw provisions are consistent with the Act failing which under Section 46 (4) those provisions are of no force and effect. The Commission considers that the codes of practice in terms of the *Farm Practices Protection (Right to Farm) Act* are sufficient to ensure that agricultural practices do not cause unreasonable impacts on properties that adjoin farms. It is, in this light, generally opposed to any additional restrictions being placed on farming activities. The Land Use Committee is thus requested to reconsider the proposed amendment with a view to including the entire property within the Agriculture zone.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:



Erik Karlsen, Chair

Cc Bert van Dalfsen, Ministry of Agriculture and Lands
Rob Kline, Regional Agrologist, Victoria
Kris Nichols, Manager, Local Area Planning, CRD

February 18, 2002

Reply to the attention of Roger Cheetham

Ken Cossey
Planner-Administrator
Capital Regional District
2205 Otter Point Road
Sooke, BC V0S 1N0

Dear Sir:

Re: Bylaws Nos. 2950 and 2951: Silver Spray Investments, East Sooke

Our Ref: 30637


Thank you for your letter dated 7th February 2002 inviting review of the amendments to the Sooke Land Use Bylaw and the East Sooke Community Plan.

As indicated in our previous comments we believe that special care is needed at the ALR interface to ensure that the land within the reserve is protected. We note that use has been made of Development Permit Areas to ensure that the development is sensitive to the area within which it is to be located and draw your attention to the inclusion of the protection of farming in the provisions of Section 879 of the Local Government Act. We suggest that you accordingly expand the requirements of the existing DPA provisions to include appropriate measures to ensure that such protection of farmland is achieved. For your assistance we enclose extracts from the Surrey OCP relating to its DPA for the Protection of Farming and from "Planning for Agriculture" which can be found on the Commission's web page at <http://apps.icompasscanada.com/lrc/>. You will note that set back distances of 30 metres, along with fencing and buffering, are recommended.

Yours truly,

LAND RESERVE COMMISSION

Per: 

 K. B. Miller, Chief Executive Officer

Cc Michael Betts, Ministry of Agriculture, Fisheries and Food

RC/lv Encl.
I:30637ml.

November 13, 2007

File: 55510-25/RDCAP-
Bylaws

By fax to: 250 – 642-5274

Erik Lund, Director
Juan de Fuca Electoral Area
Capital Regional District
#2 - 6868 West Coast Rd.
PO Box 283
Sooke, B.C.
V0S 1N0

Dear Mr. Lund:

I am replying to your letter of October 24, 2007 regarding our previous correspondence on your Official Community Plan (OCP) amendment bylaw no. 3434 and Sooke Land Use Bylaw amendment bylaw no. 3435.

The issue of the non-farm / farm interface is an issue that the Ministry has been working to develop guidelines on. The Capital Regional District has addressed this issue in its OCP bylaws for various parts of the Juan de Fuca Electoral Area which contained the buffer around ALR lands.

The Ministry has taken a shared responsibility approach to planning along the ALR boundary to improve land use compatibility. On the urban side provisions such as a 15-metre wide vegetative buffer, 30-metre building setback and a notification of farming occurrence on titles on properties being developed within 300 m of the ALR boundary will promote compatibility. On the farm side of the ALR boundary there are a series of proposed restrictions enabled through a farm bylaw. Farm side restrictions could include larger building setbacks to a variety of structures and some restrictions to farm activities. The farm bylaw would require a local government to be regulated under s.918 of the *Local Government Act* and be subject to the approval of the Minister of Agriculture and Lands.

While the 15-metre buffer is seen as a positive step for promoting land use compatibility, it would not be deemed as a required provision by the Ministry.

Mr. Lund: November 9, 2007
Page 2


As I stated previously, our preference for the Sooke Land Use Bylaw would be that its definitions, setbacks, and other provisions be consistent with our "Guide for Bylaw Development in Farming Areas". In the case of the zoning on the subject property, under bylaw no. 3435, our preference is that the Agriculture – AG zone apply to all of the land in the ALR. The expansion of the Rural – A zone on the property in question is not supported because its 150-metre setback to residential zones for "intensive farming" could limit the potential farm uses on the subject site and in other areas.

Should these bylaws go forward to the Ministry of Community Services for approval without satisfactory changes, we will forward our concerns to that ministry.

As I stated previously, this Ministry is willing to work the CRD on bylaw amendments that would minimise potential disturbances from farm dust, odour, and noise and that would demonstrate support for farming. The results of that cooperative effort could include Development Permit Area guidelines that address the concerns of farmland neighbours while avoiding future disturbances of and by agriculture.

Retaining the potential for agriculture in the communities of the Capital Region is considered part of sustainability planning. Having bylaws that help avoid the classic conflicts between neighbours over such matters as noise, dust, and odours will strengthen agriculture in the CRD in the long-term.

Yours sincerely,



Bert van Dalzen
Manager
Strengthening Farming Program

pc: Kris Nichols, Manager, Local Area Planning, CRD
Roger Cheetham, Regional Planner, Agricultural Land Commission
Rob Kline, Regional Agrologist, BCMAL

RESOURCE MANAGEMENT

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November 13, 2007

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Bylaws

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Mr. Lund: November 9, 2007
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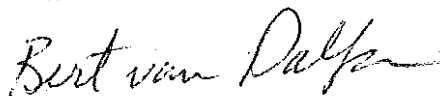
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Yours sincerely,



Bert van Dalfsen
Manager
Strengthening Farming Program

pc: Kris Nichols, Manager, Local Area Planning, CRD
Roger Cheetham, Regional Planner, Agricultural Land Commission
Rob Kline, Regional Agrologist, BCMAL



CAPITAL
REGIONAL
DISTRICT

DIRECTOR, JUAN DE FUCA ELECTORAL AREA

2-6868 West Coast Rd, PO Box 283, Sooke, BC V0S 1N0 | T 250.642.1500 | F 250.642.5274 | www.crd.bc.ca

October 24, 2007

RECEIVED
MINISTRY OF AGRICULTURE
AND LANDS

OCT 29 2007

RESOURCE MANAGEMENT
BRANCH

Bert van Dalfsen, PEng, Manager
Strengthening Farming Program
Ministry of Agriculture and Lands
Resource Management Branch
1767 Angus Campbell Road
Abbotsford, BC V3G 2M3

Dear Mr. van Dalfsen:

**Re: Land Use Planning Committee Motions on Proposed Amendment Bylaw No. 3434 and
Sooke Land Use Bylaw Amendment Bylaw No. 3435
Lot 1, Plan VIP72026, Section 88
ALR files: C-36733; CRD files: Z-10-06, ALR-02-05 & ALR-02-04**

Further to my letter of August 30, 2007 with regard to the above, I am writing to advise you of the Land Use Committee (LUC) motion made at the October 9, 2007 meeting which reads as follows:

"that the LUC clearly inform the ALC of the affect of imposing a buffer on the three properties, not otherwise there, and that we had given first reading to the previous bylaw in an attempt to avoid the unintended effect. The purpose of the bylaw was essentially to relieve the three properties of the buffer requirement and for that reason we would hope that they could support it as a remedy to a problem that does not cause adverse affects to farming, is not contrary to the ALR and does not impact ALR lands in any way. If the current model is unacceptable, could they make recommendations?"

Please find attached for your information and records the minutes from the Land Use Committee meeting of October 9, 2007 which will give you a better understanding of the points and concerns raised by Committee members.

Should the Land Use Committee approve the rezoning and the buffer as proposed, would your Ministry or the Land Commission reject the OCP amendment for this rezoning application?

I look forward to your early response in order that we may take it back to the LUC for their November 13, 2007 meeting. If you require any further information please contact Kris Nichols, Manager Local Area Planning at (250) 642-1500, local 206.

Yours truly,

Erik Lund
Director, Juan de Fuca Electoral Area

cc: Roger Cheetham, Agricultural Land Commission, MAL
Rob Kline, Regional Agrologist, MAL
Kris Nichols, Manager Local Area Planning

Attachments: LUC Minutes of October 9, 2007

b) **DP-14-07 – Blythe Barlow, 8061 West Coast Road**
(Blythe Barlow in Attendance)

K. Nichols reviewed the staff report and noted that a section 219 covenant would be required on this property.

MOVED by John Stewardson, **SECONDED** by Ken Douch that it be recommended to the Regional Board:

1. That a floodplain exemption be granted for the reconstructed deck to be located at the high water mark in accordance with the terms and conditions of Development Permit (DP-14-07).
2. That Development Permit (DP-14-07) for the construction of a multi-level deck on Lot B, Section 32, Otter District, Plan 16163 be approved subject to the following conditions:
 - a) That the sun deck shall remain as detailed in Attachment 1.
 - b) That the sun deck remain as assessed in the geotechnical and structural engineer reports by CMS Engineering Ltd as per Attachments 2 and 3.

CARRIED

6. **Rezoning Applications**

(a) **Z-10-06 – WestCoast Design for Wehrhahn/Stone, 1030 Parkheights, East Sooke**
(Laurie Wallace in Attendance for the Applicants)

Dr. Alex van Netten, 990 Parkheights

Dr. van Netten expressed his concern about the imposition of the ALR buffer but also stated that he had no problem with his neighbour's subdivision for his children. The process has affected his land; he was not notified about how the buffer would affect his land and feels that his rights have been violated. In the LUC committee letters to the ALR it mentions that the neighbours had been wronged. The minutes don't discuss this and should record the entire process. A statement that you have wronged us should be in the minutes. The majority of the LUC members were unaware that they were imposing a buffer; recognize that the problem is in the OCP and not sure what the solution is but it does need to be addressed; noticed that the response from the ALC has rejected the exemption of the properties; wants to know what is the next step so that we are all happy.

K. Nichols confirmed that the letter was written and that the ALC had responded. The *Local Government Act* stipulates that the ALC must approve amendments to the OCP. Our response is noted in the recommendation in the staff report.

Laurie Wallace on behalf of the applicant

Ms Wallace reported that she had provided staff with a time-line of events for this application; application has been on-going for three years; application was put on hold until the new OCP was in place; were not aware of the buffer issue; need a solution.

Jennifer Paulus

Reiterated what her neighbour said; not against the subdivision but the issue is how it affects her property; did receive a copy of the ALC response letter and noted that we are now in a conundrum. Ms Paulus also reviewed the letter to the ALC from Director Lund and felt that it did not totally support the LUC motion of July 10, 2007 to accept alternative number two stating the background of the decision; letter did not include the background nor did it request to meet in person; questioned if any attempt had been made to meet with ALC staff after receipt of the ALC response letter.

- wants to clarify that there was an OCP in place when this application was in the hands of the CRD
- March 8, 2006 Regional Board motion to forward ALR-02-05 to the Land Commission noting that the LUC endorses the application in principle subject to receipt of technical findings on appropriate soil quality for the pieces of land being exchanged
- March 8, 2006 Regional Board motion for Bylaw No. 3238 to be adopted, although it was later rescinded there was an OCP in place when the application was in the hands of the CRD
- spoke with Roger Cheetham at the ALC who confirmed that they make the decisions on inclusions but this application perhaps could have been viewed as a boundary amendment in which case there was a possibility of input from the CRD with respect to the portion that was included
- as taxpayers they are upset that this could happen
- displayed a receipt for excavating work done in July 2004 for creation of her Japanese garden and gazebo which is now in the buffer area
- three choices are available: pay the \$550 development permit fee; forget the plans, or ignore the bylaw and continue with the plans
- against telling people what they can do on their property but is against it if it affects the usage on her property without the opportunity to express how it affects them
- if the application for rezoning had not been put off in November 21, 2006 perhaps she would have found out about the rezoning prior to the second OCP and finished her plans prior to the adoption of the second OCP
- before the buffer was put into the OCP someone from the CRD should have looked into the fact that there is no notification process for inclusion and perhaps no authority to deny an inclusion application, therefore, every time this happens another taxpayer's rights will be violated
- there is no difference between an application into the ALR and an application for rezoning as both have the potential to affect adjacent properties based on the current OCP
- reminded staff that OCP Map 3d needs to be corrected before putting her property in it
- when this process started in June she wanted to rectify the situation that occurred and to ensure that procedures are in place so it does not happen to someone else

Alternate Director Graham noted that this buffer affects more areas than just these properties and questioned how many people are not aware of it; before the adoption of the OCP this buffer did not exist; letter received from the ALC is straight forward and the staff recommendations are sound.

MOVED by Alternate Director Graham, **SECONDED** by John Stewardson that it be recommended to the Regional Board:

1. That staff be directed to:
 - a) Amend Bylaw No. 3353 "Official Community Plan for East Sooke Bylaw No. 1, 2006", as indicated in Attachment No. 4 of the staff report dated October 9, 2007.
 - b) Amend Bylaw No. 2040 "Sooke Land Use Bylaw Schedule A Zoning Map of a Portion of the Electoral Area of Sooke", as indicated in Attachment No. 5 of the staff report dated October 9, 2007.
2. That the Juan de Fuca Land Use Committee recommends to the Regional Board that:
 - a) First reading of Bylaw No. 3434, "Official Community Plan for East Sooke, Amendment Bylaw No. 1, 2007" be rescinded;
 - b) Bylaw No. 3434, "Official Community Plan for East Sooke, Amendment Bylaw No. 1, 2007" be given first reading as amended and referred to a Public Hearing;
 - c) First reading of Bylaw No. 3435, "Sooke Land Use Bylaw, Amendment Bylaw No. 88, 2007", be rescinded;
 - d) Bylaw No. 3435, "Sooke Land Use Bylaw, Amendment Bylaw No. 88, 2007" be given first reading as amended and referred to a Public Hearing.
 - e) Delegate the authority to hold the public hearing to the Juan de Fuca Electoral Area Director or Alternate.

Discussion on the motion ensued and LUC members noted that:

- the province has the overall authority
- there were anomalies that took place and it is regrettable
- the buffer is from the OCP, not the ALC, and to that extent the decision about the buffer is ours, not the province's
- the province won't require the buffer to be in place around the ALR
- the province was a referral agency and would not approve the OCP without the buffer and will not allow us to change the buffer.

K. Nichols agreed that the ALC have the final authority on any bylaws dealing with agricultural land.

Patrick O'Rourke stated that this bylaw is about a buffer zone on property that is outside the ALR. Mr. O'Rourke further noted that the letter from the ALC states "we urge you to reconsider your position" and does not necessarily mean that they disapprove of the bylaw; have not heard anything in this discussion or seen anything in the staff report that deals with the concerns that changes being proposed on their properties is not there anymore and think that is the original reason why we had the committee go back and look at this due to the unfortunate and unintended consequences. Mr. O'Rourke further stated that the ALC could argue that the bylaw is contrary to the Agricultural Land Reserve Act and would require the adjudication of the courts; before we have a discussion on the legal status of the bylaw and what can or cannot be approved by the CRD or what the ALC may or may not find contrary to their legislation is not for staff or committee speculation. If the issue is that the bylaw is outside the authority of the CRD we may need legal advice.

Director Lund said he would like a legal opinion.

John Stewardson agreed that the province has to approve any amendment to the OCP; legal opinion would be a waste of time and money and we should move on; we know the province

has to approve any change to the OCP; province encourages and protects the ALC with a buffer zone; province will turn it down.

Ken Douch questioned if the ALR boundary could be different from the zoning lot line; could the ALR be set back 15 metres from the lot line? A bigger piece of land was put into the ALR than was taken out; stuck with the 15 metre setback; problem stems from the exchange of ALR. We have the jurisdiction to show these boundaries.

Kris Nichols replied that 'yes', you could put the ALR land wherever the commission deemed it was appropriate but we would have to go back to the applicants who made this exchange over a year ago. This would be unfair and onerous to the applicants.

Alternate Director Graham stated that we would be asking the same body which was unwilling to remove the buffer, a different question and doubts that they would be willing to consider an exclusion in the same amount.

Director Lund reviewed the application and noted that unless there are legal items to be explored, we are stalling the process.

Patrick O'Rourke referred to the ALC letter from Mr. Karlsen and noted that nowhere does it state that they have recommended not approving the bylaw but "strongly urge the Land Use Committee to reconsider its position ... to maintaining the 30 meter buffer...". The second issue in the letter is "maintaining the 30-metre buffer not being an onerous and unjustified requirement.... to help ensure that conflicts at the interface will be minimized, to everyone's benefit...". Mr. O'Rourke further noted that it is clear that rezoning residential properties is not to the neighbours' benefit and there is no interface issue here. This is an OCP requirement. With regard to Mr. Karlsen's statement "...in this light, generally opposed to any additional restrictions being placed on farming activities...", This is not about restricting farming activities, it's about removing restrictions on adjacent properties; there has been a hardship; not sure if Mr. Karlsen misunderstood or has not been clear in his response as he seems to be responding to a different issue. Just because we think the province won't approve or the ALC will object, we should not remedy an unintended and unforeseen effect on these properties.

Terri Alcock agreed with Patrick O'Rourke in that we should initiate another try with the ALC to make them understand that we made an error that caused a problem with three adjacent property owners. If they cannot accept our suggestion, can they help to resolve this problem? We need a legal opinion as well as a solution by the ALC.

Kris Nichols noted that obtaining a legal opinion would mean a further delay which will affect the applicant.

Laurie Wallace reported that the applicant will have to sell.

Further comments from LUC members noted:

- the letter from the ALC was clear
- the problem is the cost of the development permit and questioned if it could be waived for these three properties
- the buffer itself is not likely to cause any problem in terms of what you can do with the land
- it is important that everything possible be done and all information be obtained
- a legal opinion is needed

The question on the motion regarding the staff report recommendations was called.

DEFEATED

The LUC members further discussed the application and it was noted that:

- this application has been in the works since 2004
- the harm of the buffer is merely theoretical, any building application that came in this summer would not have applied to a buffer
- the harm of disallowing the subdivision for up to another year is obvious
- prior to the OCP, the buffer did not exist
- the buffer issue is unique to all agricultural properties
- the neighbours are not in a unique situation, they have discovered the buffer and made their point heard
- applicant has been waiting for four years on a relatively simple application
- until this situation is resolved, any building permit application is not applicable as this bylaw won't be in place
- should ask the province
- causing demonstrable harm; a three-year delay is inexcusable and the cost to the individual has to be significant.

Jennifer Paulus stated that she had been advised differently, that she was already bordering Agriculture – the map and bylaw coming into place was simply to match the agricultural land and that is why she did not proceed with the building permit.

Additional comments by LUC members noted:

- the bylaw should proceed to a Public Hearing because it is a bylaw to amend the OCP
- we should send a letter to the ALC to clarify that we passed a motion without considering the potential impact of the extension of the buffer to the three properties without giving the people the opportunity to speak to that motion; request an unequivocal statement from them as to whether they will or will not recommend approval of the bylaw and, if not, give us some ideas as to how to proceed so that we are not creating a greater wrong or greater confusion
- when this application was placed before us there was no discussion on the buffer in the OCP

Kris Nichols recommended going back to the ALC before taking it to a Public Hearing. He cautioned the committee re going forward until approval is received from the ALC as part of the recommendation limits agricultural uses on ALR land which cannot be approved. The buffer did not exist until the new OCP was adopted.

MOVED by Patrick O'Rourke, **SECONDED** by Terri Alcock, that the LUC clearly inform the ALC of the affect of imposing a buffer on the three properties, not otherwise there, and that we had given first reading to the previous bylaw in an attempt to avoid the unintended effect. The purpose of the bylaw was essentially to relieve the three properties of the buffer requirement and for that reason we would hope that they could support it as a remedy to a problem that does not cause adverse affects to farming, is not contrary to the ALR and does not impact ALR lands in any way. If the current model is unacceptable, could they make recommendations?

The question on the motion was called.

CARRIED

Greg Whincup, Young Lake Road, noted that the ALC may recommend something but it is the Ministry which approves changes to the OCP. If this comes to naught, is there some way the CRD can interpret what is acceptable within the 15-metre buffer?

Sandy Sinclair questioned the wording in the OCP as to "existing ALR" and "newly zoned ALR". Kris Nichols advised that it states "ALR".

b) Z-04-07 – 3L Developments
(Kabel Atwall in Attendance)

Kris Nichols reviewed the staff report.

Mr. Atwall spoke to the application and displayed information boards. It was noted that:

- 93 acres were purchased from TimberWest
- wetlands on the property have been dealt with through park dedication
- a number of public meetings as well as an Open House have been held to gather information to formulate this plan as well as to protect the riparian areas
- area along the power line is an important linkage for park connections to the east and west as well as some linkages along Poirier Road
- densities being asked for are comparable to those in the area
- logical to have an extension of the urban containment boundary
- would build the trails if requested to do so and work with the appropriate authorities
- power-line park would be a separate lot and conveyed to the CRD to provide public access and would be maintained by the Regional District.

MOVED by Alternate Director Graham, **SECONDED** by Patrick O'Rourke that the Land Use Committee recommends that staff be directed to refer the October 9, 2007 staff report to the following agencies for comment:

Agricultural Land Commission
Ministry of Agriculture
Ministry of the Environment
Department of Fisheries and Oceans
Ministry of Highways
T'Sou-ke First Nation
District of Sooke

CRD Regional Planning Division
Otter Point APC
BC Hydro
JDF EA Park's Commission
Sooke School District #62
Sooke Salmon Enhancement Society
RCMP

CARRIED

October 2, 2007

File: 55510-25/RDCAP-
Bylaws

By fax to: 250 – 642-5274

Erik Lund, Director
Juan de Fuca Electoral Area
Capital Regional District
#2 - 6868 West Coast Rd.
PO Box 283
Sooke, B.C.
V0S 1N0

Dear Mr. Lund:

I am replying to your letter of September 7, 2007 regarding your Official Community Plan (OCP) amendment bylaw no. 3434 and Sooke Land Use Bylaw amendment bylaw no. 3435. I had replied on July 9, 2007 regarding the referral of these bylaws.

On September 20, 2007, Rob Kline, Regional Agrologist, and Jim LeMaistre, Land Use Planner, of this Ministry and Roger Cheetham, Regional Planner, Agricultural Land Commission met with Kris Nichols, Manager of Local Area Planning, CRD to discuss these bylaws and the subject site. Our staff reiterated the topics in my previous letter: - the OCP buffer policy and Development Permit Area for the protection of farming are very positive for agriculture, and that the expansion of the Rural – A zone on the property in question is not supported because its 150-metre setback to residential zones for "intensive farming" could limit the potential farm uses on the subject site and other areas.

Our preferred approach for the OCP bylaw, at a minimum, is to retain the 15-metre wide buffer around the non-farm edge of the agricultural areas. Based on our recent work on edge planning, it would be more effective, where it can be added, to have a 30-metre wide building setback, including a 15-metre vegetated buffer, and a notification of farming occurrence on the titles of properties outside and near the ALR.

Our preference for the Sooke Land Use Bylaw would be that its definitions, setbacks, and other provisions be consistent with our "Guide for Bylaw Development in Farming Areas". In the case of the zoning on the subject property, under bylaw no. 3435, our preference is that the Agriculture – AG zone apply to all of the land in the ALR.

Mr. Lund:
Page 2

As I stated in my previous letter, this Ministry is willing to work the CRD on bylaw amendments that would minimise potential disturbances from farm dust, odour, and noise and would demonstrate support for farming.

I trust that, jointly, we can create bylaws that continue, and expand, the potential for agriculture in the Capital Regional District.

Yours sincerely,



Bert van Dalfsen
Manager
Strengthening Farming Program

pc: Kris Nichols, Manager, Local Area Planning, CRD
Roger Cheetham, Regional Planner, Agricultural Land Commission
Rob Kline, Regional Agrologist, BCMAL



Agricultural Land Commission
133-4940 Canada Way
Burnaby, British Columbia V5G 4K6
Tel: 604-660-7000
Fax: 604-660-7033
www.alc.gov.bc.ca

September 21, 2007

Please reply to the attention of Roger Cheetham

Erik Lund, Director, Juan de Fuca Electoral A
Capital Regional District
2-6868 West Coast Road
Sooke, BC VOS 1N0

MINISTRY OF AGRICULTURE,
FISHERIES & FOOD
RECEIVED

SEP 25 2007

RESOURCE MANAGEMENT
AND PLANNING BRANCH

Dear Sir:

Re: Proposed Amendment to Official Community Plan for East Sooke – Amendment Bylaw No. 3434 and Proposed Amendment to Sooke Land Use Bylaw - Amendment Bylaw No. 3435.

Our Refs: C – 35529; C – 30637; C – 26508; C – 36733
Your Refs: CRD Z – 10 – 06; ALR – 02 – 05 and ALR – 02 – 04

We would like to thank you for the copy of your letter dated 7th September 2007 that was sent to Bert van Dalfsen of the Ministry of Agriculture and Lands, in response to which we comment as follows.

In a letter to the Capital Regional District dated 18th February, 2002 (copy enclosed), in response to the referral of proposed amendments to the Sooke OCP and Sooke Land Use Bylaw relating specifically to the Silver Spray Lands, the Commission commented on the need for special care to be exercised at the ALR interface. It suggested that the DPA provisions that specifically related to the Silver Spray property be expanded to include appropriate measures for the protection of farming. Extracts from the City of Surrey's OCP were enclosed as an example of how a DPA for the Protection of Farming might be drafted.

The Commission was accordingly pleased to note that DPA provisions for the protection of farmland had been included in the new plan for East Sooke and that these provisions also appeared in the OCPs for Shirley/Jordan River and Otter Point. In a letter dated 12th July 2006 the Commission specifically commended the regional district on the inclusion of these provisions.

In this light the Commission is concerned that the Land Use Committee has passed a motion reducing the DPA for the protection of farm land from 30 metres to 15 metres in the East Sooke OCP and that, further, the committee has suggested that the DPA be removed in its entirety for the three lots affected by the recent exclusion and inclusions from the ALR in terms of Commission resolutions 187/2006 and 413/2006.

....2

There has been a growing awareness, particularly in the last 10 years, of the need, especially in the more urbanised and urbanising areas of the province to ensure that measures are put in place to reduce the potential for conflicts at the agricultural/urban interface. This is necessary from the point of view of the residents that live adjacent to the boundary whose enjoyment of their property could be affected by the agricultural activities being carried on across the boundary. It is also necessary to protect the farmer from impacts on farm land caused, *inter alia*, by trespass and conflicts between domestic and farm animals. These conflicts are heightened as density increases and agriculture intensifies.

There are several publications that are helpful in understanding these issues, all of which can be found on the Commission's web site at www.alc.gov.bc.ca. These include:

- Planning Subdivisions Near Agriculture (a copy of this document is enclosed)
- Subdivision Near Agriculture – A Guide for Approving Officers
- Planning for Agriculture Chapter 8 – Planning along Agriculture's Edge

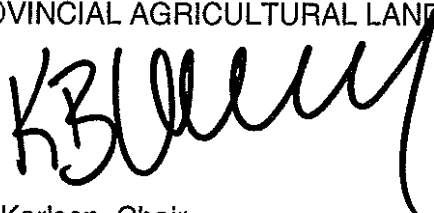
In this light we strongly urge the Land Use Committee to reconsider its position with regard to the DPA with a view to maintaining the 30m meter buffer and to applying it to all properties adjacent to the ALR. In the Commission's opinion, the use of the DPA will not result in any major impediments being placed on the development of the properties adjacent to the ALR boundary and should not be considered as an onerous and unjustified requirement. Rather it will help ensure that conflicts at the interface will be minimized, to everyone's benefit including the owners of adjoining residential properties.

Turning now to the proposed amendment to the land use bylaw we note that it is intended that part of Lot 1, Section 88 be zoned as Rural Zone – A within which we understand some limitations are placed on agriculture. We draw your attention to Section 46 (2) of the *Agricultural Land Commission Act* (the Act) which requires that local governments ensure that all bylaw provisions are consistent with the Act failing which under Section 46 (4) those provisions are of no force and effect. The Commission considers that the codes of practice in terms of the *Farm Practices Protection (Right to Farm) Act* are sufficient to ensure that agricultural practices do not cause unreasonable impacts on properties that adjoin farms. It is, in this light, generally opposed to any additional restrictions being placed on farming activities. The Land Use Committee is thus requested to reconsider the proposed amendment with a view to including the entire property within the Agriculture zone.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:



Erik Karlsen, Chair

Cc Bert van Dalfsen, Ministry of Agriculture and Lands
Rob Kline, Regional Agrologist, Victoria
Kris Nichols, Manager, Local Area Planning, CRD



September 7, 2007

Bert van Dalfsen, PEng, Manager
Strengthening Farming Program
Ministry of Agriculture and Lands
Resource Management Branch
1767 Angus Campbell Road
Abbotsford, BC V3G 2M3

Dear Mr. van Dalfsen:

**Re: Land Use Planning Committee Motions on Proposed Amendment Bylaw No. 3434 and
Sooke Land Use Bylaw Amendment Bylaw No. 3435
Lot 1, Plan VIP72026, Section 88
ALR files: C-36733; CRD files: Z-10-06, ALR-02-05 & ALR-02-04**

In response to your letter dated July 9, 2007 re the above bylaws, I wish to advise that your letter was distributed to the Juan de Fuca Land Use Committee (LUC) at their meeting of July 10, 2007.

I am writing to advise you of the Land Use Committee motion made at the July 10, 2007 meeting which reads as follows:

"...to accept Alternative #2 and to forward this recommendation to the Ministry of Agriculture and the Agricultural Land Commission with a covering letter stating the background of this decision."

Alternative #2 from the LUC staff report reads as follows:

"Remove the buffer requirement for the three lots (or portions thereof) in the subject application (Z-10-06), which have been impacted by the ALR inclusion and resultant OCP buffer protection designation. In order to do so, exemptions to the OCP policies would be required. Additionally allowing these exemptions of the buffer for these three lots could potentially set a precedent and trigger additional applications of this nature within the Juan de Fuca Electoral Area (JDFEA). This change in policy would require additional approval from the Board, the Ministry of Agriculture and the Agricultural Land Commission."

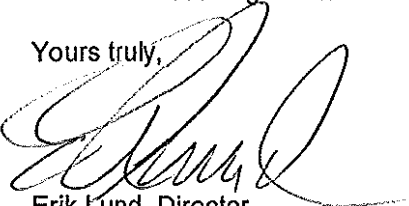
Prior to that meeting on June 12, 2007, the Land Use Committee passed the following motion addressing the issue of the proposed zoning on the property:

1. Staff be directed to:
 - a) Amend Bylaw No. 3434 "Official Community Plan for East Sooke Bylaw No. 1, 2006", as indicated in Attachment No. 1 of the June 12, 2007 staff report changing the Farmland Protection Area Buffer from 30.0 metres to 15.0 metres on map 3d;
 - b) bring forward a staff report to the next LUC meeting with recommendations or options regarding the buffer issue; and
2. That it be recommended to the Regional Board that:
 - a) First reading of Bylaw No. 3434, "Official Community Plan for East Sooke, Amendment Bylaw No. 1, 2007" be rescinded;

... 2/

- b) *Bylaw No. 3434, "Official Community Plan for East Sooke, Amendment Bylaw No. 1, 2007" be given first reading as amended and referred to a Public Hearing;*
- c) *First reading of Bylaw No. 3435, "Sooke Land Use Bylaw, Amendment Bylaw No. 88, 2007", be rescinded;*
- d) *Bylaw No. 3435, "Sooke Land Use Bylaw, Amendment Bylaw No. 88, 2007" be given first reading as amended and referred to a Public Hearing.*

Yours truly,



Erik Lund, Director
Juan de Fuca Electoral Area

cc: Roger Cheetham, Agricultural Land Commission, MAL
Rob Kline, Regional Agrologist, MAL
Kris Nichols, Manager Local Area Planning

Attachments: LUC staff reports
Revised Bylaw Nos. 3434 & 3435

February 18, 2002

Reply to the attention of Roger Cheetham

Ken Cossey
Planner-Administrator
Capital Regional District
2205 Otter Point Road
Sooke, BC V0S 1N0

Dear Sir:

Re: Bylaws Nos. 2950 and 2951: Silver Spray Investments, East Sooke

Our Ref: 30637

Thank you for your letter dated 7th February 2002 inviting review of the amendments to the Sooke Land Use Bylaw and the East Sooke Community Plan.

As indicated in our previous comments we believe that special care is needed at the ALR interface to ensure that the land within the reserve is protected. We note that use has been made of Development Permit Areas to ensure that the development is sensitive to the area within which it is to be located and draw your attention to the inclusion of the protection of farming in the provisions of Section 879 of the Local Government Act. We suggest that you accordingly expand the requirements of the existing DPA provisions to include appropriate measures to ensure that such protection of farmland is achieved. For your assistance we enclose extracts from the Surrey OCP relating to its DPA for the Protection of Farming and from "Planning for Agriculture" which can be found on the Commission's web page at <http://apps.icompasscanada.com/lrc/>. You will note that set back distances of 30 metres, along with fencing and buffering, are recommended.

Yours truly,

LAND RESERVE COMMISSION

Per:



 K. B. Miller, Chief Executive Officer

Cc Michael Betts, Ministry of Agriculture, Fisheries and Food

RC/lv Encl.
I:30637ml.