



# The Corporation of the District of Central Saanich

## REGULAR COUNCIL REPORT

For the Regular Council meeting on Monday, February 26, 2024

Re: ALR and Rural Housing – Survey Responses and Considerations

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### **RECOMMENDATION(S):**

*That staff be directed to draft bylaws for Council's consideration to amend zoning regulations to reflect Option 2 in the Council report received February 26, 2024 to allow either a secondary suite or detached accessory dwelling on lots less than 1 ha, and allow both a secondary suite and detached accessory dwelling on properties 1 ha or larger.*

### **PURPOSE:**

The purpose of this report is to inform Council of the public input received through an on-line survey and seek direction from Council on proceeding with the bylaw.

### **BACKGROUND:**

In response to changes in provincial legislation the opportunity to consider more flexible accessory housing options in the Agricultural Land Reserve (ALR) was presented to Council at the November 8, 2021 meeting. At that time Council referred the issue to both the Peninsula and Area Agricultural Commission (PAAC) and the Advisory Planning Commission (APC) for comment. This report is attached as Appendix A.

At the November 28, 2022 meeting staff reported back with input from PAAC and the APC seeking direction on allowing detached accessory dwellings on ALR lands, in a manner similar to what is permitted on rural lands. That report also identified a number of related issues identified during the permitting process for accessory units that could be addressed at the same time. At that time Council directed staff to report back with consideration of allowing three dwellings units (principal residence, secondary suite and a detached accessory dwelling) and to provide more analysis. This report is attached as Appendix B.

Following further analysis, a recommended approach was presented to Council at the May 29, 2023 meeting with proposed regulations that considered if properties had municipal services or on-site sewerage systems, and if they were agricultural or rural lands. At that time Council directed analysis of more regulatory options for a minimum lot size requirement and to get public feedback on the options. This report is attached as Appendix C.

Further analysis of five options was undertaken that included a range of options from being quite permissive and supporting 3 dwelling units on approximately 99% of the affected lands, to the most

restrictive option of retaining the permitted density of two dwellings but with more flexibility on ALR lands. An on-line survey was open from early October to mid-December, with 428 surveys completed. The purpose of this report is to provide Council with the input received via the on-line survey and seek direction on how to proceed.

The What We Heard Survey Report is attached as Appendix D. An additional Summary Analysis of Survey Responses is attached as Appendix E. A description of the five options as presented in the survey is attached as Appendix F.

## **DISCUSSION:**

### Public Input

The attached What We Heard Survey Report shows that public opinion is quite polarized on this issue with the least restrictive and most restrictive options having the highest response rates. The reasons provided for supporting the least restrictive option was generally the need for more housing, whereas protecting agricultural land for farm production and protecting the rural character were generally the reasons noted for selecting the most restrictive option. The responses were analyzed further to determine if other trends were noted, which are summarized in the attached analysis (Appendix E). The results remain polarized with the less restrictive Options 1 or 2 generally be preferred option, followed by the most restrictive Option 5.

As provided in the November 2022 report, comments from both PAAC and the APC indicated support for allowing up to 3 dwellings. Following the on-line survey PAAC requested staff to attend their January 11, 2024 meeting to discuss the project. The PAAC did discuss the matter further but decided not to provide additional comments.

### Legislative Context

Since this project was initiated, the province has more recently enacted new legislation around housing and because of this legislation the District is mandated to increase the number of permitted dwelling units on residential properties. Although more significant for lands inside an Urban Containment Boundary (UCB), the legislation requires residential zones outside the UCB to be permitted either as a secondary suite or detached accessory dwelling, which the District currently does with few exceptions.

The Provincial Policy Manual for Small Scale Multi-Unit Housing (SSMUH) includes the following:

- The SSMUH legislation only apply where the land is served by both a water system and sewer system provided as a service by a municipality or regional district, but not an improvement district.
- For private water supply, the *Drinking Water Protection Act* would apply to detached accessory dwelling unit, whereas a secondary suite is exempt. Therefore, under the DWPA properties with a detached accessory dwelling are defined as a 'water system' and must be designed, permitted, and operated in accordance with the Act.
- Under the *Public Health Act*, private sewerage systems (ie: on-site septic systems or holding tanks) are subject to the Sewerage System Regulation and local governments should only permit a secondary suite and not detached accessory dwellings on properties under one hectare in size that are not serviced by a municipal sewer system.

Of the five options provided in the survey, only Options 4 and 5 would be consistent with the provincial recommendation of a one hectare minimum for allowing a detached accessory dwelling.

**New Considerations**

Given the change in context due to the provincial requirements, Council may want to consider the following:

- In response to the SSMUH legislation, the permitted density within the UCB will increase significantly and provide more housing options without requiring a zoning amendment. Current lot size restrictions to have a suite or cottage would no longer be applicable.
- 25 additional properties are captured in the analysis; these are RE-5 zoned lots where suites are currently not permitted but will need to be amended in response to Bill 44.
- With respect to the provincial recommendation of 1 ha (~2.5 ac) or larger for detached accessory dwellings on non-services lands, approximately half of our rural/agricultural lands do not meet this threshold, see the summary table below.
  - 75% of RE zoned properties are less than 1 ha, meaning our current regulations are inconsistent with provincial recommendations.
  - 29% of agricultural lands are less than 1 ha and would be inconsistent with the provincial recommendations unless this size threshold was a condition.
- As presented, only Option 4 with a 2 ha lot size could be considered consistent with the provincial recommendations for agricultural lands, however if Option 5 (either suite or detached accessory dwelling) was only applied to lots 1 ha or greater it could be consistent.
- Option 3 (previous staff recommendation), which considered sewerage services and lot area to retain farming, is also not consistent with the 1 ha provincial recommendation, however in conjunction with a Development Permit to consider siting to ensure the least impact on farm capacity and adopting a On-site Sewerage Bylaw to create a checks and balances approach that would allow the District to require and review more information on private sewerage systems a number of potential issues could be mitigated.

Lot Size (ha)	Agriculture	Rural Estate	Total	
<0.1	8	5	13	561 (<6% have municipal sewer)
0.1-0.2	19	85	104	
0.2-0.4	56	87	143	
0.4 - 1	95	206	301	
1 - 2	136	56	192	564
2 - 5	194	67	261	
5 - 10	59	5	64	
10 -20	28	3	31	
> 20	16	0	16	
<i>Total</i>	<i>611</i>	<i>514</i>	<i>1125</i>	

Table 1: Range of Rural and Agricultural Lot Sizes

**Regulatory Control and Oversight: Private Water and Sewerage Systems**

The Provincial Policy Manual and Site Standards released to help local governments amend their zoning to comply with Bill 44 includes the following comments.

“In setting their requirements, local governments should ensure the requirements of other provincial legislation and regulations are met (e.g., the *Drinking Water Protection Act* and the *Sewerage System Regulation*). In addition, only secondary suites (not ADUs ) should be permitted on properties less than one hectare in size that are not serviced by sewer systems operated by a local government.”

While the overall objective of protecting public health is laudable, one of the challenges with the province making high level statements such as this, while at the same time not providing any oversight, is that it applies a ‘one broad stroke’ approach to a wide range of situations. Local context with respect to climate and geographical/soil conditions vary widely, as can the level of engineering and technology used for any single system. This position can put a local government in a difficult situation should they wish to consider supporting detached accessory dwellings or more dwellings than recommended by the province.

As outlined in the May 2023 report, to reduce potential health risks adopting a new ‘on-site services bylaw’ to require information be provided to the District by way of a prescribed form could be considered. This is something Council could consider regardless of what decision is made for agricultural lots and/or allowing three dwelling units. The intention is that the form would be required as part of a Building Permit application with the main purpose to review two main aspects:

- Siting of septic systems relative to riparian areas/ watercourses, groundwater wells, sensitive environments, or areas of saturated soils or prone to flooding, and
- Assurance design has adequately considered slope, soil removal and deposit requirements including identifying if located within a nematode quarantine area, and that there are no concerns related to municipal infrastructure.

To be clear, staff are not suggesting that District staff review the system design to ensure compliance with provincial regulations as we do not have the expertise or resources. By receiving information in a standard form, the District review would focus on the siting of proposed systems, having adequate information on soil removal/deposit, and to have an opportunity to identify any concerns.

#### Regulatory Control and Oversight: Protecting Farm Capability

Should Council support detached accessory dwellings in agricultural zones, the siting of the dwelling and its supportive infrastructure (driveways, parking, septic systems, water lines etc) should ensure impacts to current and future farm operations and farm capability are not impacted.

If more oversight is preferred, then consideration of utilizing a Development Permit (DP) process with guidelines approach rather than a more prescriptive regulatory regime would improve flexibility based on unique site conditions. This option was discussed in the previous report to Council in May 2023 and included draft guidelines. As drafted, the guidelines include an alternative approval process for residential uses by identifying a Farm Residential Footprint on the property where all residential uses are contained, which is an approach encouraged by the Ministry of Agriculture and Agricultural Land Commission. It is recommended the authority to approve development permits (DP) and Farm Plate covenants for this purpose be delegated to the Director of Planning and Building Services to streamline the approval process.

Alternatively, a more simple approach could be to permit detached accessory dwellings and rely solely on the zoning regulations for siting. Similar to the Rural Estate zones, a 50 m maximum separation from the principal dwelling would keep the dwellings somewhat near each other, and applying a smaller separation for smaller properties could be a consideration, ie: 25 m separation on lots less than 1 ha. This approach would rely on the property owners considering potential impacts to both onsite and adjacent farm operations and future farm capability.

**NEXT STEPS:**

Staff are requesting Direction from Council with respect to the number of accessory dwellings supported on rural and agricultural lands, and direction to staff should Council wish to pursue a new onsite servicing bylaw and development permit guidelines in tandem with zoning amendments for Council’s consideration.

**OPTIONS:**

**Option 1 (recommended):**

That staff be directed to draft bylaws for Council’s consideration to amend zoning regulations to reflect Option 2 in the Council report received February 26, 2024 to allow either a secondary suite or detached accessory dwelling on lots less than 1 ha, and allow both a secondary suite and detached accessory dwelling on properties 1 ha or larger.

**Alternative Options:**

The following outlines some options for Council, however any could be modified as directed by Council.

1. Align Agricultural zones with Rural Estate zones and permit either a secondary suite or detached accessory dwelling. This option could include establishing a 1 ha lot size to have a detached accessory dwelling to align with provincial recommendations. This is similar to Option 5 in the survey.
2. (Recommended) Allow either a secondary suite or detached accessory dwelling on lots less than 1 ha, and allow both a secondary suite and detached accessory dwelling on properties 1 ha or larger. This is similar to Option 4 in the survey but considers a smaller 1 ha lot size rather than 2 ha lot size.
3. Incorporate consideration of sewerage services and farm capability as outlined in the May 2023 report that would allow 3 dwellings on 0.4 ha lots on municipal services or 1 ha lot on private systems. This represents Option 3 in the survey.
4. Support 3 dwellings on all lots 0.4 (~1ac) or larger. This represents Option 2 in the survey and would not align with provincial recommendations.
5. Support 3 dwellings on all rural and ag lots 1,000m<sup>2</sup> or larger, a size similar to a larger residential lot inside the UCB. This represents Option 1 in the survey and would not align with provincial recommendations.

**CONCLUSION:**

This project was driven by provincial changes in legislation that provide opportunity to consider more flexible accessory housing options on Agricultural Reserve Land (ALR). Public input is largely polarized between two fundamentally different priorities: protecting farmland or providing more housing. While both of these issues are important today, they may conflict with each other from a land use perspective since they can compete for the same land. A number of options have been presented in an effort to find an appropriate balance to this issue.

Report written by:	Andrea Pickard, Planner
Respectfully submitted by:	Jarret Matanowitsch, Director of Planning and Building Services
Concurrence by:	Christine Culham, Chief Administrative Officer

**ATTACHMENTS:**

Appendix A: November 8, 2021 Council Report

Appendix B: November 28, 2022 Council Report

Appendix C: May 29, 2023 Council Report

Appendix D: What We Heard Survey Report

Appendix E: Summary Analysis of Survey Responses

Appendix F: Description of Survey Options