

NO: R220

COUNCIL DATE: **October 3, 2016**

REGULAR COUNCIL

TO: **Mayor and Council** DATE: **September 22, 2016**
FROM: **General Manager, Planning and Development** FILE: **6635-01**
SUBJECT: **Second Dwellings on Agricultural Properties: Zoning By-law Review**

RECOMMENDATION

The Planning and Development Department recommends that Council:

1. Receive this report as information;
2. Approve by-law amendments, as documented in Appendix "I", to Surrey Zoning By-law 1993, No. 12000 (the "Zoning By-law") which, if approved, would remove a second single family dwelling and a duplex as permitted uses in the "General Agriculture (A-1)" and the "Intensive Agriculture (A-2)" Zones;
3. Authorize the City Clerk to bring forward the proposed Zoning By-law amendment by-law, as documented in Appendix "I", for the required readings and to set a date for the related public hearing; and
4. Direct the Planning and Development Department to initiate a further assessment of Surrey's current Zoning By-law standards to ensure agricultural regulations are consistent with the *Agricultural Land Commission Act, Regulations and Orders*, and with Ministry By-law Standards (where applicable) and bring back a report for Council consideration.

INTENT

The purpose of this report is to:

- Introduce proposed Zoning By-law amendments for agricultural zones, as documented in Appendix "I", to remove second single family dwellings and duplexes as permitted uses, as recommended by the City's Agriculture and Food Security Advisory Committee (AFSAC) and as advised by the City's Legal Services Division;
- Provide Council an update on Surrey's interim Agricultural Land Commission (ALC) Non-Farm Use application process for second single family dwellings or duplexes proposed in the Agricultural Land Reserve (ALR); and
- Seek Council authorization for a further review of agricultural zoning and application processes, as recommended by the Surrey AFSAC, Ministry of Agriculture (MOA) and ALC.

POLICY CONSIDERATIONS

The ALR is a Provincial zone in which agriculture is recognized as the priority use. Farming is encouraged and non-farm uses, such as residential dwellings, are restricted. The ALR is administered by the ALC, under the legislative authority of the *Agricultural Land Commission Act* (“ALCA”), and *Agricultural Land Reserve Use, Subdivision and Procedure Regulations* (“ALR Regulations”).

Although responsibility for community planning and zoning regulation is delegated to local governments, the Minister of Agriculture is responsible for ensuring that local government by-laws respect the Provincial interest in agriculture and aquaculture; therefore, the MOA and ALC provide feedback and work with local governments from time to time to create consistent standards and to guide by-law development in farming areas.

ALR and ALCA Regulation

The ALCA came into effect in July 1973, including Section 10(1) of the Act stating that:

“No person shall occupy or use agricultural land designated as an agricultural land reserve...for any purpose other than farm use, except as permitted by this Act or the regulations or by order of the Commission upon such terms and conditions as the Commission may impose.”

On November 1, 2002 the ALCA was succeeded by a completely new ALCA. Also effective November 1, 2002, Section 3(1) of the ALR Regulations listed land uses permitted in an agricultural land reserve unless otherwise prohibited by a local government by-law, including in Section 3(1)(b):

“for each parcel, one secondary suite within a single family dwelling; and one manufactured home, up to 9 m in width, for use by a member of the owner’s immediate family.”

ALCA Section 18(a)(i)(ii) states that:

“A local government...may not permit non-farm use of agricultural land or permit a building to be erected on the land except for farm use, or approve more than one residence on a parcel of land unless the additional residences are necessary for farm use”.

BACKGROUND

The existing General Agriculture (“A-1”) Zone and the Intensive Agriculture (“A-2”) Zone both permit a second residential dwelling unit or a duplex on any lot that has farm status as determined by the BC Assessment Authority and is larger than 4 hectares (10 acres) in area. This provision is to allow for full time farm help on farm parcels that are deemed to be large enough to reasonably require such help.

On September 3, 2015, a delegation by ALC and City planning staff advised the AFSAC on permitted farm and non-farm uses in the ALR and on Provincial regulations as they related to additional residences for farm help.

As a result, the AFSAC made several recommendations to the General Manager of Planning and Development, including that:

1. A 'duplex' be removed, as a permitted second dwelling use from the Surrey Zoning By-law A-1 and A-2 Zones";
2. A requirement for a 'Farm Plan' specifying the need for additional farm worker residences accompany any applications for additional dwellings in the ALR;
3. Planning staff request that the Ministry of Agriculture and the ALC provide definitions and thresholds for what constitutes the need for full-time farm worker housing; and
4. The Agriculture and Food Security Advisory Committee be informed about any proposed Zoning By-law amendments when the information is available.

On April 7, 2016, the AFSAC received a presentation from MOA and ALC staff recommending a review and update to Surrey's A-1 and A-2 zones in order to bring them in line with Provincial standards, as regulated by the ALCA and the ALR Regulations.

Based on an initial review of Surrey's Zoning regulations, AFSAC recommended that the City initiate an assessment of its Zoning By-law to ensure compliance with ALC and Ministry By-law standards, including a specific review of guidelines and applications processes for permanent farm worker residences.

On May 16, 2016 the AFSAC minutes from the April 7, 2016 meeting were received by Council by way of RES. R16-948, including a recommendation:

"That that the Manager of Planning and Development initiate an assessment of the Surrey's current Zoning By-law standards to ensure compliance with the Agricultural Land Commission and Ministry of Agriculture By-law regulations, in consultation with Ministry and Land Commission staff, in order to update any out of date or unclear agricultural by-law standards that are applicable in the Agricultural Land Reserve."

On July 13, 2016 the AFSAC recommended that the City begin to refer all new building permit and/or related fill permit applications for additional dwellings (such as second single family dwellings or duplexes) in the ALR to the ALC following a referral from City Council, as Non-Farm use applications. ALC approval would therefore be required before the City would consider processing or issuing permits as prescribed under Section 18 of the ALCA.

DISCUSSION

Recent correspondence from the ALC (Appendix "II") indicates that a number of provisions in the City's Zoning By-law may be out of date, in conflict, or ambiguous with regard to the provisions of the ALCA and the ALR Regulations. More specifically, the City's current Zoning By-law provisions may be unclear or overly discretionary with regard to the need for additional dwellings for farm use, as required in Section 18 of the ALCA.

While the ALCA authorizes local government to approve more than one residence (for farm help), the only criteria provided to local governments to adjudicate is that the parcel "should have 'farm'

classification under the Assessment Act", and that if the local government has 'doubt' about the need for an additional farm help residence, to contact the Ministry and ALC staff for guidance. The lack of formal criteria has led to several BC municipalities, including the City of Surrey, to authorize additional residences, without review, as long as a lot is 4 hectares (10 acres) in size and has farm status. The ALC has confirmed that this is not an appropriate determination under the ALCA and should not be used as the sole basis for issuing a building permit for an additional residence for farm help as described in ALC Policy #9 (Appendix "III").

In response to these concerns and on the advice of the City's Legal Division, staff is of the opinion that amendments to remove the second single family dwelling and duplex use from the A-1 and A-2 zones are required. The removal of the second dwelling allowance is deemed to be appropriate action to preserve the long term integrity of farm land in the ALR, and to ensure fair and consistent review and approvals.

Preservation of Farm Land and Discouraging Non-Farm Uses in the ALR

The preservation of agricultural land is both a Provincial and City objective, with over 1/3 (9,290 hectares) of Surrey's lands in the ALR. There are a number of reasons to be concerned about the provision of non-essential non-farm uses (such as additional dwellings on agricultural land), including, but not limited to:

- increased value of agricultural land from such 'improvements';
- cumulative loss of viable agricultural land due to residential development; and
- locating non-farm residents in rural areas is inconsistent with City plans and policies which direct future development to areas intended for densification where services exist.

Staff recognizes that farm operations are unique when compared to other businesses and industries. Each farm operation is unique in terms of its size and operation and each application for farm help should be considered on its own merits. This creates a unique set of challenges for City approvals, such as what conditions warrant an additional dwelling.

The MOA advice to the Planning and Development Department, received on July 18, 2016, to address this matter (Appendix "IV") indicates that:

"From an Agrologist's perspective, an additional permanent residential construction in the ALR is generally necessary only if one, or both, of the following situations apply:

- 1. The nature of the operation requires the 24/7 presence of an employee on the farm; and*
- 2. There is no appropriate and salubrious accommodation available within reasonable commuting distance from the farm.*

It is, therefore, safe to conclude that an additional permanent dwelling is generally not necessary on agricultural land within the borders of the City of Surrey except for a very limited number of situations (such as livestock operations with year round calving and breeding such as dairy farms with >100 head milking or dry (including all stock over 6 months), or systems with valuable and more fragile animals which can require immediate

care if something goes wrong, such as horse operations (> 20 horses), which can be assessed on a case by case basis.”

Current Agricultural Zoning Regulations

Part 10 B.6 of the ‘General Agriculture (A-1)’ Zone currently indicates that:

“Where the lot is 4 hectares [10 acres] or more and is a farm operation, one additional single family dwelling or a duplex” is permitted.

Part 10, Other Regulations L.11, of the ‘General Agriculture (A-1)’ Zone also indicates that:

“Unless prohibited or further regulated in this Zone, By-law, or other By-laws, activities and uses on lands located in the Agricultural Land Reserve shall be in accordance with the Agricultural Land Commission Act/Regs/Orders, where applicable.”

It is clear that the existing zoning provisions are not consistent with the ALCA Section 18, which states:

“Unless permitted by this Act, the regulations or the terms imposed in on order of the commission:

(a) a local government...may not

(ii) approve more than one residence on a parcel of land unless the additional residences are necessary for farm use.”

The ALC and ALR regulations takes precedence over the City’s Zoning By-law provisions in the ALR for uses not permitted in the ALR regulations, and therefore a local government must have ‘no doubt’ that the farm employee dwelling is necessary for farm use. If this is not the case, a property owner would be in contravention of the ALCA, and it would be unlawful for the City to permit construction of such a dwelling without ALC approval.

“Interim” Non-Farm Use ALC Application Process for Second Dwelling Applications

To ensure consistency with the ALCA in the interim period before Zoning By-law amendments are considered by Council, the Planning and Development Department has developed an Information Brochure titled, *“Additional Dwellings in the ALR”*, attached as Appendix “V”. The guide defines the interim ALC application process and provides consistent approval process for additional dwellings in the ALR. This informational brochure was provided to staff and made available to the public on July 20, 2016.

The interim procedure for dealing with second dwelling applications in the ALR involves forwarding each application to the AFSAC for comment before providing it to Council to determine if the application should be referred to the ALC for final consideration and approval.

This interim ALC application process ensures a consistent and fair review of all second dwelling applications by professionals qualified to ascertain the agricultural need for a second dwelling on

a farm, and ensures that the City's approval process for second dwellings in the ALR is in compliance with ALC regulations.

This interim review process for all second dwellings proposed in the ALR is intended to remain in place until such time as Council has considered Zoning By-law amendments that would remove current provisions for a second single family dwelling or a duplex, as a permitted use, from both the A-1 and A-2 Zones, both within and outside of the ALR.

Summary of Proposed By-law Amendments

The intent of the proposed zoning by-law amendment is to remove the existing provision for a second single family dwelling or duplex in the "General Agriculture (A-1)" Zone and the "Intensive Agriculture (A-2)" Zone, as a permitted use, for the reasons discussed earlier in this report.

Below is a summary of the proposed Zoning By-law amendments:

1. Definitions: Part 1

The terms "Accessory Farm Residential Facilities" and "Farm Residential Footprint" are amended to remove the provision for 'any additional single family dwelling or duplex'.

2. Permitted Uses: Part 10, Section B.6

The "General Agriculture (A-1)" Zone provision that permits 'one additional single family dwelling or a duplex, where the lot is 4 hectares [10 acres] and is a farm operation' is removed. The removal of this Principal use from the "General Agriculture (A-1)" zone, also removes the allowance for an additional single family dwelling or duplex as a principal use in the "Intensive Agriculture (A-2)" Zone.

3. Setbacks: Part 10 and Part 11, Section F.1(a)

The Minimum Setback table is amended to remove the term 'duplex' as a building allowable in the zone. The Maximum Setbacks in Part 10, Section F.1(b) is also amended to remove the terms 'and additional single family dwelling or a duplex'. These changes are provided in both the "General Agriculture (A-1)" Zone and the "Intensive Agriculture (A-2)" Zones.

4. Height of Buildings: Part 10 and Part 11, Section G.1

The Height of Buildings provision is amended to remove the word 'duplex' as a building allowable in the zone.

5. Special Regulations: Part 10 and Part 11, Section J.2(b)

The "General Agriculture (A-1)" Zone and the "Intensive Agriculture (A-2)" Zones, which currently allow an increase to the 2,000 square meter farm residential footprint maximum by 1000 square meters, for an additional single family dwelling or duplex where the lot is 4 hectares [10 acres] or more, is removed.

Alternative Options to the Removal of Additional Dwellings in Agricultural Zones

As an alternative to the proposed by-law amendments discussed above, some municipalities in BC have requested formal criteria from the MOA and ALC upon which local government decisions on the need for a second dwelling may be based.

The City of Abbotsford has adopted detailed guidelines within its agricultural zones and a specific application processes for additional farm help dwellings in the ALR as a basis for determining legitimacy of a request for additional residences for farm use. For instance, certain thresholds for different types of agricultural operations (number of livestock in various types of farms, acreages of berry or vegetable production, et cetera) are provided to justify the need for additional farm help for certain types and sizes of farms operations.

Other local governments, such as the Township of Langley, allow for a second residence within their agricultural zones (similar to Surrey's existing zoning regulations) without specific thresholds, but also require a Non-farm use application and ALC approval following Council referral of such an application.

The Township's process is similar to the interim process adopted by Surrey; however, legal advice has indicated that this approach could have legal implications and liabilities if denials or approvals are challenged, as the permanent use of structures may be tied to a certain type or scale of farm operation, which could change in the future.

Recent Applications for Second Dwellings and Fill Permits for Second Dwellings

Since 2013 the City has processed 22 building permit applications for either a second single family dwelling or duplex in the ALR (approximately 7 building permits per year). More recently, the City forwarded three applications to the ALC for non-farm use, and all three were not approved by the ALC as the dwellings were not seen as a benefit to agriculture or required by the farm operation. During the same time, 15 applications for fill permits for either a second single family dwelling or duplex were processed. These applications will likely result in future building permit applications for additional dwellings, but often take years before applications are made, to allow time for the structural fill to settle. Building permit applications for additional farm buildings will be processed in a timely manner; building permit applications for a second dwelling will be subject of a rezoning application that would include referred to the ALC for non-farm use application before it could be considered for approval by Council.

Projected Impact of Proposed Zoning By-law Amendments

There are approximately 435 privately owned lots zoned "General Agriculture (A-1)" and "Intensive Agriculture (A-2)" within the City that are equal to or greater than 10 acres in size (35 outside the ALR and 400 inside the ALR). Table 1 below shows the types of dwellings per privately owned lot zoned "General Agriculture (A-1)" and "Intensive Agriculture (A-2)" over 10 Acres in size in and outside of the ALR.

Of the lots shown in Table 1 below, it is estimated that 91 already contain at least one additional dwelling (84 containing an additional single family dwelling(s) and 7 with at least one duplex building). This leaves approximately 350 lots (115 vacant, 229 with one Single Family Dwelling,

and 6 with one duplex) that could possible apply for a second ‘single family dwelling or a duplex’ for farm worker housing under current zoning provisions.

Table 1: Estimated Residential Dwelling Types per A-1 and A-2 Zoned Lots in and out of the ALR in Surrey

RESIDENTIAL DWELLING TYPES PER “A-1” or “A-2” ZONED LOT	# OF LOTS OUTSIDE OF ALR	# OF LOTS INSIDE ALR	TOTAL # OF LOTS
Vacant	10	105	115
One Single Family Dwelling	12	178	190
One Family Dwelling and One Suite	5	34	39
Two Single Family Dwellings	4	59	63
Two Single Family Dwellings and One Suite	2	12	14
Two Single Family Dwellings and Two Suites	1	2	3
One Duplex	0	6	6
One Single Family Dwelling and a Duplex	0	1	1
Two Duplexes	1	0	1
Three Single Family Dwellings	0	2	2
Four Single Family Dwellings	0	1	1
TOTAL	35	400	435

If the proposed by-law amendments to remove the provision for one additional second dwelling or a duplex in the A-1 and A-2 Zones are approved, all of existing approved second dwellings (approximately 92 dwellings, 74 in ALR and 18 out of the ALR) would become legally non-conforming. A legally non-conforming use will cease to be legally non-conforming if:

- the use is discontinued for a continuous period of 6 months;
- the building or structure to which the use applies is damaged to an extent of 75% or more of its value; or
- the scale or degree of the non-conforming use is undertaken to a degree that is higher than that which occurred at the time of the adoption of the by-law.

Legally non-conforming status is not impacted by:

- a change in ownership or tenancy; or
- the discontinuation of uses which are associated with seasonal or agricultural practices.

Any new second dwellings proposed for farm worker dwellings within the A-1 and A-2 Zones would therefore require rezoning approval, and for those lots in the ALR, a Non-Farm Use approval by the ALC. For lots outside of the ALR a second dwelling would require a rezoning, but would not be required to submit a non-farm use application to the ALC since ALC regulations do not apply outside of the ALR.

Additional Agricultural Zoning By-law Review Objectives

In addition to the Zoning By-law amendments discussed in this report, it is recommend that the City undertake a further review of its agricultural zoning standards, as recommended by the AFAC, in order to ensure:

- Agricultural Zoning Regulations are in compliance with Provincial ALR Regulations and the ALC Act requirements;
- policies and regulations are clear and are clearly communicated;
- policies and regulations are consistently applied;
- zoning Regulations are up to date Ministry By-law Standards, where applicable and/or appropriate to Surrey; and
- an outcome is predictable for both the City and the property owner.

The agricultural zoning review would likely commence in consultation with the Surrey AFSAC, MOA, ALC, and the public. Any recommendations for additional by-law amendments would be brought forward for Council consideration by the spring of 2017.

Legal Services Division Review

Legal Services Division has reviewed this report and supports its recommendations and the proposed by-law amendments.

SUSTAINABILITY CONSIDERATIONS

The proposed zoning by-law amendments and policy review discussed in this report are in keeping with the Sustainability Charter Desired Outcomes ‘Do6’ and ‘Do10’, which indicate that:

- “Agricultural Land Reserve is to be maintained and agricultural practices are to be sustainable...”; and
- “Land is to be used efficiently and sensitively, and development should minimize the impacts on...agricultural land...”

CONCLUSION

Based on the above discussion it is recommended that Council:

- Approve the proposed By-law amendments, as documented in Appendix “I”, to Surrey Zoning By-law, and authorize the City Clerk to bring forward the proposed Zoning By-law amendment by-law for the required readings and set a date for the related public hearing; and
- Authorize the Planning and Development Department to initiate a further assessment of Surrey’s current Zoning By-law standards to ensure all other agricultural zoning regulation

are in accordance with the *Agricultural Land Commission Act, Regulations and Orders*, and up-to-date with Ministry By-law Standards (where applicable) in consultation with the ALC, MOA and AFSAC, and bring back a report for Council consideration in due course.

Original signed by
Jean Lamontagne
General Manager,
Planning and Development

MK/ss

Attachments:

- Appendix "I" - Proposed Zoning By-law Amendment By-law
- Appendix "II" - Letter from Agricultural Land Commission, dated July 22, 2016
- Appendix "III" - ALC Policy #9: Additional Residence for Farm Help Accommodation
- Appendix "IV" - Letter from Ministry of Agriculture, dated July 18, 2016
- Appendix "V" - City Information Brochure: Additional Dwellings in the ALR

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**Proposed Amendments to
Surrey Zoning By-law No. 12000, as amended**

The following amendments are proposed to Surrey Zoning By-law, 1993, No. 12000, as amended:

AMENDMENTS TO PART 1 DEFINITONS

1. In Part I Definitions

Amend the definition of "*Accessory Farm Residential Facilities*" as follows:

- delete "and any additional *single family dwelling* or *duplex*" after the words "*single family dwelling*," and before the word "including".

Amend the definition of "*Farm Residential Footprint*" as follows:

- delete ",and any additional *single family dwelling* or *duplex*" after the words "*single family dwelling*," and before the words "and the *accessory farm residential facilities*".

AMENDMENTS TO PART 10 A-1 ZONE:

1. Section B. Permitted Uses

- delete Sub-Section B.6 "Where the *lot* is 4 hectares [10 acres] or more and is a *farm operation*, one additional *single family dwelling* or a *duplex*." in its entirety, and re-number B.7 to B.9 accordingly.

2. Section F. Yards and Setbacks

Sub-Section F.1(a) "**Minimum setbacks**", is amended as follows:

- delete "*Duplexes*" and delete references to "B.9(c)" and "B.9(h)" with "B.8(c)" and "B.8(h)" accordingly.

Sub-Section F.1(b) **Maximum setbacks**., is amended as follows:

- delete Sub-Section F.1(b) entirely and replace a new Sub-Section F.1(b) as follows:

"(b) **Maximum setbacks**:

No portion of a *single family dwelling* shall be located farther than 50.0 metres [164 ft] from the *front lot line* provided that, on a *corner lot*, no portion of a *single family dwelling* shall be located farther than 50.0 metres [164 ft] from either the *front lot line* or the *side lot line* on a *flanking street*."

3. Section G. Heights of Buildings

Sub-Section G.1, is amended as follows:

- delete "*duplex*" after the words "*single family dwelling*," and before the word "or".
- delete the reference to "Section B.9" after the word "under", and replace with the words "Section B.8".

4. Section J. Special Regulations

- delete Sub-Section J.2(b) in its entirety.

AMENDMENTS TO PART 11 A-2 ZONE:

1. Section F. Yards and Setbacks

Sub-Section F.1(a) **Minimum setbacks**:, is amended as follows:

- remove the word and reference to “*Duplexes*” from the **Minimum setbacks** table.
- replace references to “B.9(c) and “B.9(h)” with “B.8(c)” and “B.8(h)” accordingly, from the **Minimum setbacks** table.

Sub-Section F.1(b) **Maximum setbacks**:, is amended as follows:

- delete Sub-Section F.1(b) entirely and insert a new Sub-Section F.1(b) as follows:

“(b) **Maximum setbacks**:

No portion of a *single family dwelling* shall be located farther than 50.0 metres [164 ft] from the *front lot line* provided that, on a *corner lot*, no portion of a *single family dwelling* shall be located farther than 50.0 metres [164 ft] from either the *front lot line* or the *side lot line* on a *flanking street*.”

2. Section G. Heights of Buildings

Sub-Section G.1, is amended as follows:

- delete the word “*duplex*” after the words “*single family dwelling*,” and before the word “or”.
- delete the reference to “Section B.9” after the word “under”, and replace with the words “Section B.8”.

3. Section J. Special Regulations

- delete Sub-Section J.2(b) in its entirety.



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

July 14, 2016

Reply to the attention of Tony Pellett

City of Surrey
 13450 104 Avenue
 SURREY BC V3T 1V8

Attention: Jean Lamontagne, General Manager
 Surrey Planning and Development Department

Re: Conflict with City of Surrey Bylaw Provisions

It has come to the attention of the Provincial Agricultural Land Commission (the "Commission") that a number of provisions in the City's Zoning Bylaw are now and have been for some time in conflict with the provisions of the *Agricultural Land Commission Act* (the "Act") or the Agricultural Land Reserve Use, Subdivision and Procedure Regulation (the "regulations").

I would draw your particular attention to the following provisions in the Act:

The Act and the regulations are not subject to any other enactment, whenever enacted, except the *Interpretation Act*, the *Environment and Land Use Act*, the *Environmental Management Act* and compliance with one regulation under the *Water Sustainability Act*;

The Act specifies the purposes of the Commission: to preserve agricultural land; to encourage farming on agricultural land in collaboration with other communities of interest; to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies;

Land included in an agricultural land reserve remains agricultural land in the agricultural land reserve unless excluded under this Act;

Unless permitted under this Act, a local government...may not permit non-farm use of agricultural land or permit a building to be erected on the land except for farm use, or...approve more than one residence on a parcel of land unless the additional residences are necessary for farm use, and...a person who exercises the powers of an approving officer may not approve a subdivision of agricultural land;


A person must not use agricultural land for a non-farm use unless permitted under this Act;

A person must not subdivide agricultural land unless permitted under this Act but an owner of agricultural land may apply to the Commission to subdivide agricultural land;

Land is deemed not to be taken or injuriously affected by its designation as an agricultural land reserve;

For the purposes of this Act the Commission may enter into agreements with...a local government;

A local government in respect of its bylaws...must ensure consistency with this Act, the regulations and the orders of the Commission.

 <p>Agricultural Land Commission Act</p>	<p style="text-align: right;">Policy #9 January 2016</p> <p style="text-align: center;">ADDITIONAL RESIDENCES FOR FARM HELP ACCOMMODATION</p>
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This policy is intended to assist in the interpretation of the [Agricultural Land Commission Act, 2002](#), including amendments as of September 2014, (the "ALCA") and BC Regulation 171/2002 ([Agricultural Land Reserve Use, Subdivision and Procedure Regulation](#)), including amendments as of June 2015, (the "Regulation"). In case of ambiguity or inconsistency, the ALCA and Regulation will govern.

REFERENCE:

Agricultural Land Commission Act, S.B.C. 2002, c. 36 – Section 18

Unless permitted by this Act, the regulations or the terms imposed in an order of the commission,

- (a) a local government, or an authority, a board or another agency established by it or a person or an agency that enters into an agreement under the [Local Services Act](#) may not*
 - (ii) approve more than one residence on a parcel of land unless the additional residences are necessary for farm use*

INTERPRETATION:

The ALCA and the Regulation do not set a limit on the number of additional residences for farm help accommodation per parcel, but all residences must be necessary for farm use.

Local government must be provided with evidence that there is a legitimate need for an additional residence for farm help accommodation. One criterion is that the parcel should have 'farm' classification under the [Assessment Act](#). In coming to a determination, a local government should consider the size and type of farm operation and other relevant factors. To help determine the need and evaluate the size and type of farm operation, the local government may wish to obtain advice and direction from staff of:

- a) the Ministry of Agriculture
- b) the Agricultural Land Commission.

Local government bylaws should not necessarily be the basis for making a determination about the necessity for farm help accommodation. Some bylaws may automatically permit a second residence on a specified size of parcel in the Agricultural Land Reserve ("ALR"). This is not an appropriate determination under the ALCA and should not be used as the basis for issuing a building permit for an additional residence for farm help accommodation. Some local governments have adopted detailed guidelines as a basis for determining legitimacy of a request for additional residences for farm help, in which a threshold for different types of agricultural operations is specified. In these instances, it may be appropriate to consider these as factors in interpreting Section 18 of the ALCA. If

there is any doubt with respect to need, an application under Section 20 (3) of the *ALCA* for permission for a non-farm use is required.

Unless defined in this policy, terms used herein will have the meanings given to them in the *ALCA* or the Regulation.



18 July 2016

Jean Lamontagne, Manager
Planning & Development
City of Surrey
13450 104 Ave
Surrey, BC V3T 1V8

Dear Mr. Lamontagne:

Thank you for the opportunity to comment on your bylaw 12000, Part 10 (A-1), B 6, and Part 11 (A-2), B 1, which permit an additional second dwelling or a duplex where lot sizes exceed 4 hectares.

As you may know, under the Agricultural Land Act, Section 18(a), a local government may not approve more than one residence on a parcel of land in the ALR unless the additional residences are necessary for farm use.

From an agrologist's perspective, an additional permanent residential construction is generally necessary only if one, or both, of the following situations apply:

- a) The nature of the operation requires the 24/7 presence of an employee on the farm
- b) There is no appropriate and salubrious accommodation available within reasonable commuting distance from the farm.

The use of readily available and affordable farm technology such as monitoring devices or automatized systems have substantially reduced human intervention over the last decades. At the same time, the 24/7 on-farm presence of farm employees has become generally unnecessary in many production systems. Farm operations where the presence of at least one employee 24/7 is required are generally those where emergency situations that need the immediate response of a skilled worker occur relatively frequently. Examples of that type of operations are livestock production systems with year round calving and breeding such as dairy farms with >100 head milking or dry (including all stock over 6 months), or systems with valuable and more fragile animals which can require immediate care if something goes wrong, such as horse operations (> 20 horses).

Full-time farm employees can generally find housing within reasonable distance from their work place if the farm is located in the Lower Mainland. This assumes, of course, that the employee is been paid a living wage. Furthermore, producers who need to accommodate a large number of workers to meet a seasonal peak labour demand have the option of placing temporary farm worker housing on their land. The Ministry's Guide for Bylaw Development in Farming Areas contains some recommendations for conditions that local governments could



apply to temporary farm worker housing. These conditions are typically not difficult for bona fide farmers to meet.

It is, therefore, safe to conclude that an additional permanent dwelling is generally not necessary on agricultural land within the borders of the City of Surrey except for a very limited number of situations which can be assessed on a case by case basis. The Ministry of Agriculture is a resource that can assist City of Surrey staff in that assessment. Lot size and farm status alone, however, is not typically enough evidence to support whether an additional permanent dwelling is necessary for farm use.

Against the background of strong non-farm use pressure on agricultural land, it is my opinion that an update of the current City of Surrey bylaw that reflects the considerations I provided in the present letter would benefit agriculture in Surrey.

Thank you very much again for the opportunity to comment on your zoning bylaw.

Yours truly,

A handwritten signature in blue ink, appearing to read "D. Geesing".

Dieter Geesing PhD, PAg, RPBio
Regional Agrologist Fraser West
BC Ministry of Agriculture
dieter.geesing@gov.bc.ca
604-556-3048 | c: 778-347-2074

July, 2016
PLANNING DEPARTMENT

ADDITIONAL DWELLINGS IN THE AGRICULTURAL LAND RESERVE (ALR)

**THIS PAMPHLET IS FOR GENERAL GUIDANCE ONLY.
IT DOES NOT REPLACE BY-LAWS OR OTHER LEGAL DOCUMENTS**

This bulletin is intended to provide information on the Planning and Development Department process for additional dwellings proposed in the Agricultural Land Reserve (ALR).

What is the Agricultural Land Reserve (ALR)?

The [ALR](#) is a Provincial zone in which agriculture is recognized as the priority use. Farming is encouraged and non-farm uses, such as residential dwellings, are restricted. The ALR is administered by the [Agricultural Land Commission](#) (ALC), under the legislative authority of the Agricultural Land Commission Act (ALCA), and [Agricultural Land Reserve Use, Subdivision and Procedure Regulations](#).

How many dwellings may be permitted per parcel in the ALR?

- 8 One single family dwelling is permitted on a parcel of land in the ALR. One secondary suite for residential purposes, wholly contained within the single family dwelling may also be permitted in the City of Surrey.
- 8 In addition, one manufactured home up to 9 meters wide for use by the owner's immediate family member(s) or a farm worker may be permitted on a parcel of land greater than 10 Acres as a second dwelling in the General Agriculture (A-1) and Intensive Agriculture (A-2) Zones.

[ALC Policy #8](#) further explains the ALR Regulations for permitted residential uses in the ALR.

Are additional dwellings allowed in the ALR?

Any additional permanent dwelling (such as second single family dwelling or a duplex) proposed for an immediate family member, or someone who is not a farm worker necessary for the farm/ranch operation, is not a permitted use in the ALR.

An additional permanent dwelling (single family or duplex) or a second manufactured home for farm/ranch worker accommodation may be permitted in the ALR if it is necessary for farm use (farm help). [ALC Policy #9](#) further explains ALC Act requirements for additional residences for farm help accommodation in the ALR.

Can I apply to the City for additional dwellings in the ALR?

In order for the City of Surrey to permit the construction of an additional permanent residence (second single family dwelling or a duplex) proposed for Farm Worker(s), an application to the Agricultural Land Commission (ALC) for approval under Section 20 (3) of the ALCA is required. The permission for non-farm use will be considered by the ALC following a referral of the application to the ALC from Surrey City Council.

If the application is referred by the City and approval from the ALC is granted, and only for properties that are a minimum of 4 hectares (10 acres) in size that are a farm operation, an additional single family dwelling or a duplex is permissible as a second dwelling in Surrey's General Agriculture (A-1) and Intensive Agriculture (A-2) Zones if the parcel has 'farm' classification under the [Assessment Act](#).

How do I know if my property is located in the ALR?

The ALC website (www.alc.gov.bc.ca) has a tool that identifies properties located in the ALR. Additionally, the City's COSMOS online mapping system (<http://cosmos.surrey.ca>) has a map layer that shows the Agricultural Land Reserve. This layer is located in the "Layers and Legend" tab, in the yellow Land Use / Environment folder on the left side of COSMOS.

OVERVIEW OF THE APPLICATION PROCESS FOR ADDITIONAL RESIDENCES IN THE ALR

Step 1: Plan Your Application

- Verify if your property is located within the ALR and is zoned either A-1 or A-2.
- Confirm that your property is a minimum of 4 hectares (10 acres) in size and is considered a farm operation. (A farm operation means one or more lots being used for agriculture use which is classified as a farm under the [BC Assessment Act](#), R.S.B.C. 1996, and is managed as a single farm.)
- Ensure and provide evidence that the additional residence is necessary for the accommodation of bona-fide farm/ranch worker(s) necessary for the farm/ranch business, and that a certain level of existing employment is already taking place on the farm operation.
- When deciding upon a location for an additional dwelling, consider the farm residential footprint and the maximum setback requirements of the A-1 and A-2 Zones.
- An ALR related soil permit may also be required for additional dwellings, where more than 0.2 Ha (1/2 acre) of land is proposed to be disturbed by deposition of soil, which also requires approval from the (ALC), see [ALC Policy #19](#) for more details.

Step 2: Submit Your Non-Farm Use Application Form Using ALC Application Portal

- To submit a Non-Farm Use Application to the ALC you must sign into the [ALC Application Portal](#), on the ALC website (www.alc.gov.bc.ca), using a [BCeID account](#).
- Once you have completed and submitted the application, the City of Surrey will be notified that an application has been submitted.
- After you have submitted an online application, you will receive an email with instructions to contact the City and pay the Non-Farm Use application fee (\$1,500) to the City of Surrey.
- The City will wait to process an application until payment is received.
- City of Surrey Planning and Development staff will access your application material within the Application Portal in order to process the application.

Step 3: Application Review

- Upon completing an online application and receiving payment for the application, all Non-Farm Use and/or Non-Farm Use Soil applications for an additional dwelling(s) will be sent electronically to the City.
- A file number will be given to the application and the file will be assigned to a City Planner.
- Planning & Development staff will review your application and may request additional supporting documentation as necessary, such as information that demonstrates the proposed additional residence is necessary for farm operations. [Examples of evidence could be supplied by a T4 slip and/or Record of Employment (ROE) and/or by an accountant's letter stating that the incomes of the occupant of the principle dwelling and the Farm Employee are generated from the farm operation.]
- The application will be referred to the Agriculture and Food Security Advisory Committee (AFSAC) for comment.
- Planning staff will prepare and send a Planning Report to City Council with recommendation as to whether or not Council should refer the application to the ALC.
- During a Regular Council – Land Use meeting, City Council will decide whether or not to refer the application to the ALC. This step is required before the ALC will consider a non-farm use application.

Step 4: Referral to the ALC

- If City Council decides to refer the application to the ALC, the application will be forwarded to the ALC Board for consideration with or without comment. Forwarding an application to the ALC should not be construed as an approval.
- The ALC will review and assess the proposal. The ALC may request additional information.
- The ALC makes a decision on the proposal and communicates the decision in writing to the applicant and to the City.

Step 5: Building Permit Application

- If the ALC supports the proposed additional residence(s), a [building permit application](#) and if applicable any related [soil permit application](#) for the additional dwelling(s) can be processed by the City, subject to the City Zoning regulations such as building siting and setback requirements.

For further information on applying to construct an additional dwelling in the ALR in Surrey, contact the:

- Planning and Development Department at City Hall
13450 – 104 Avenue, Surrey, BC
604-591-4441
planningdevelopment@surrey.ca
- Agricultural Land Commission (ALC)
133, 4940 - Canada Way, Burnaby, BC
604-660-7000
ALCBurnaby@victoriai.gov.bc.ca