

See page 4, paragraph 3



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Reply to the attention of Michael McBurnie  
ALC Planning Review: 46842

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**Re: RDOS Electoral Area E OCP Bylaw No. 3010**

Thank you for forwarding a draft copy of the Regional District of Okanagan-Similkameen Electoral Area E Official Community Plan update (the "OCP") for review and comment by the Agricultural Land Commission (the "ALC" or "Commission"). The 2023 OCP is an update to the current Official Community Plan, which was referred to the ALC for review and comments 2008.

Section 46 of the ALCA requires local governments to ensure their bylaws are consistent with the *Agricultural Land Commission Act* (the "ALCA"), Agricultural Land Reserve ("ALR") regulations, and any orders of the Commission. Inconsistent bylaws include (but are not limited to) those which allow a use of land in the ALR that is not permitted under the ALCA or contemplate a use of land that would impair or impede the intent of the ALCA. ALC staff provide the following comments to help ensure that the bylaw is consistent with the purposes of the ALCA, ALR regulations, and any previous decisions of the ALC. Please note that ALC staff cannot endorse any inconsistencies - that requires a resolution of the Commission.

ALC staff appreciate the broad recognition of and support for the ALR in the OCP. ALC staff particularly commend the recognition of Agriculture within the OCP's *Vision and Broad Goals* with the goal to "encourage farm-compatible uses on ALR land and discourage subdivision and over-development."

## **SECTION 9: AGRICULTURE**

### **Policies**

ALC Staff commend the strong support for protecting and enabling agriculture in the Agriculture Policies (section 9.3). ALC staff specifically appreciate policies 9.3.2, 9.3.4, and 9.3.6 which touch on the RDOS's ability to decline to forward applications to the ALC if they do not support agriculture and do not align with the OCP. These policies state:

*The Regional Board:*

*.2 Will generally not support applications to the Agricultural Land Commission (ALC) that seek to:*

- a) subdivide land or adjust the boundaries between parcels that results in the fragmentation of farm, vineyard or orchard units, or seek to create homesite parcels; or*
- b) introduce non-agricultural uses.*

*.4 Will consider requests for the Regional District to initiate an application to the Agricultural Land Commission to have lands excluded from the Agricultural Land Reserve only within the context of a comprehensive review of this Official Community Plan (OCP) Bylaw.*

*.6 Supports maintaining the integrity of the Agricultural Land Reserve (ALR) and its existing boundaries.*

ALC staff also appreciate policy 9.3.9:

*.9 Encourages the consolidation of small parcels into larger farm units that increase efficiency and enhance the land base of the ALR.*

ALC staff agree with the Ministry of Agriculture and Food staff's suggestion that policy 9.3.12 be modified to read:

*.12 Supports the agricultural and rural economy by encouraging secondary, value-added uses such as agritourism, secondary processing of products, and home occupations/industry provided they are compatible with surrounding land uses and are in compliance with the Agricultural Land Commission Act and Regulations.*

### **Buffering**

ALC staff strongly support the inclusion of a buffering policy that references the best practices outlined in the Ministry of Agriculture's Guide to Edge Planning:

*.10 Encourages new development adjacent to agricultural areas to provide sufficient buffering in the form of setbacks, fencing and landscaping that is consistent with the Ministry of Agriculture Guide to Edge Planning Promoting Compatibility Along Agricultural – Urban Edges.*



### **Cannabis**

Policies 9.3.15 and 9.3.16 speak to cannabis production. The ALR Use Regulation (section 8) states that local governments cannot prohibit cannabis production that is outdoors, is in a structure with a base entirely of soil, or is inside a structure that was constructed for growing crops prior to July 13, 2018. Local governments can regulate or prohibit indoor production of cannabis that does not meet one of these criteria.

While policy 9.3.15 is clear that it is referring to indoor cannabis production, policy 9.3.16 is not explicit. ALC staff recommend policy 9.3.16 be updated to clarify that this policy applies to indoor cannabis production.

### **LAND USE DESIGNATIONS**

While ALR land within the OCP is primarily designated as Agriculture, there is some ALR land designated Resource, Rural Holdings, Low Density Residential, Commercial Tourist, Commercial, and Parks.

Generally, ALC prefers to see all ALR land within one Agricultural designation, that aligns with the ALR Use Regulation. The exception, of course, are non-agricultural land uses that predate the ALR, or non-farm uses that have been approved by the ALC through an application process. It is recommended that ALR lands designated Resource, Rural Holdings and Low Density Residential, be re-designated as "Agriculture" (see below for details).

ALC staff also note that any land designations in the ALR other than "agriculture" must not prohibit agriculture or permit uses that aren't permitted by the ALC Act and regulations.

### **Resource Area**

The Resource Area designation permits resource extraction, recreation, and environmental conservation uses. These uses are restricted in the ALR. A land designation that appears to permit these activities could cause speculation, create landowner confusion, and increase the chances of non-compliant activities in the ALR. ALC staff recommend changing all ALR land designated Resource area to Agriculture.

### **Rural Holdings**

ALC staff recommend changing all ALR land designated Rural Holdings to Agriculture to reflect their status in the ALR and priority for farm use, regardless of parcel size.

### **Commercial Tourist and Commercial**

A portion of 7451 North Naramata Road (PID 005-931-479) is designated for Commercial Tourist. This parcel was conditionally approved for exclusion from the ALR in 2012 (Application 53022), however the conditions of approval for the exclusion have yet to be completed. As the exclusion is still in progress, ALC staff have no comments on this parcel's Commercial Tourist designation.

3005 Naramata Road (PID 005-105-307) is designated Commercial. In 2013, the Commission approved the use of this property for a micro distillery (Application 53523). As alcohol production is now a permitted use in the ALR, ALC staff recommend that the RDOS explore redesignating this property to Agriculture.

The adjacent property at 3015 Naramata Road (PID 005-105-277) is designated Commercial, however the ALC has no record of any non-farm uses approved on this property. ALC staff recommend designating it Agriculture.

### **Low Density Residential**

ALC staff recommend that all ALR land be designated *Agriculture*, unless it has been approved for a non-farm use by the ALC, has a grandfathering exception under section 23(2) of the ALCA, or the ALC has confirmed an exception under section 23(1) of the ALCA.

### **Parks**

Some Crown-owned ALR land in the northernmost portion of the OCP is designated for park use. ALC staff note that the ALR Use Regulation permits two types of parks:

1. *Section 16 permits parks established under an act of the Provincial Government:*
  - (a) *a park established or continued under the Park Act or the Protected Areas of British Columbia Act;*
  - (b) *an ecological reserve established or continued under the Ecological Reserve Act or the Protected Areas of British Columbia Act;*
  - (c) *a wildlife management area designated under the Wildlife Act;*
  - (d) *a reserve established under section 15 of the Land Act for recreational use;*



- (e) a recreation site established under section 56 of the Forest and Range Practices Act;*
  - (f) an area established by order under section 7 (1) of the Environment and Land Use Act to protect the environment or restrict land or resource use within the area.*
2. *Section 22 permits an open land park established by a local or first nation government for biodiversity conservation, passive recreation, heritage, wildlife or scenery viewing purposes as long as the area occupied by any associated structures does not exceed 100 m<sup>2</sup> for each parcel.*

As well, park uses that pre-date the ALR may be grandfathered.

Any park uses that do not meet the above criteria, including playing fields or constructed recreational trails, would require an application to the ALC.

## **OTHER SECTIONS**

### **Section 6.5: Rural Growth Area**

ALC staff appreciate that the Naramata Rural Growth Containment Area identified on page 26 does not include any ALR land.

### **Section 23: Development Permit Areas**

ALC staff appreciate the exemption for farm uses and farm structures in the ALR from the Environmentally Sensitive Development Permit Area:

#### *23.3.8 Exemptions*

*.5 The construction, alteration, addition, repair, demolition and maintenance of buildings and structures to be used in relation to a farm use as defined in the Agricultural Land Commission Act on land located in the ALR and classified as "farm" under the Assessment Act;*

*.6 Any farm use as defined in the Agriculture Land Commission Act on land located in the ALR;*

ALC staff recommend that an exemption for cultivation of farmland should also be added to section 23.4 Watercourse Development Permit (WDP) Area. While local governments can regulate farm buildings in the ALR (including requiring reasonable setbacks from water courses), the cultivation of ALR land for farm uses cannot be prohibited.



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The ALC strives to provide a detailed response to all referrals affecting the ALR; however, you are advised that the lack of a specific response by the ALC to any draft provisions cannot in any way be construed as confirmation regarding the consistency of the submission with the ALCA, the Regulations, or any decisions of the Commission.

This response does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

If you have any questions about the above comments, please contact the undersigned at 236-468-3246 or by e-mail (ALC.Referrals@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION



Michael McBurnie, Regional Planner

Enclosure: Referral of RDOS Electoral Area E OCP Bylaw No. 3010

CC: Ministry of Agriculture – Attention: Alison Fox

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