

CITY OF BURNABY

ENVIRONMENT AND WASTE MANAGEMENT COMMITTEE

HIS WORSHIP, THE MAYOR
AND COUNCILLORS

RE: NEW AGRICULTURAL LAND COMMISSION ACT AND REGULATIONS

RECOMMENDATION:

1. **THAT** Council authorize staff to undertake a review of required and recommended amendments to existing City procedures, policies and bylaws arising from the enactment of the new Agricultural Land Commission Act and Regulations, as outlined in this report.

REPORT

The Environment and Waste Management Committee, at its Open meeting held on 2002 October 08, received and adopted the *attached* report summarizing substantive changes to the legislation and regulations governing the Agricultural Land Reserve and outlining preliminary implications for City administration and regulation of ALR lands in Burnaby.

Respectfully submitted,

Councillor D. Johnston
Chair

Councillor C. Redman
Vice Chair

Councillor B. Der
Member

COPY: - CITY MANAGER - DIR. ENGINEERING - DIR. FINANCE - DIR. PLNG. & BLDG.
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TO: CHAIR AND MEMBERS 2002 October 4
ENVIRONMENT AND WASTE
MANAGEMENT COMMITTEE

FROM: DIRECTOR PLANNING AND BUILDING OUR FILE: 02.120.1

SUBJECT: NEW AGRICULTURAL LAND COMMISSION ACT AND REGULATIONS

PURPOSE: To provide the Committee and Council with information on the new legislation and regulations of the Provincial Agricultural Land Commission.

RECOMMENDATION:

1. **THAT** Council be requested to authorize staff to undertake a review of required and recommended amendments to existing City procedures, policies and bylaws arising from the enactment of the new Agricultural Land Commission Act and Regulations, as outlined in this report.

REPORT

1.0 BACKGROUND

At its 2002 April 15 meeting, Council received a report from the Environment and Waste Management Committee regarding anticipated changes in the structure, operation and regulation of the Provincial Agricultural Land Reserve (ALR). At Council's request, the Mayor wrote to the Honourable Stan Hagen, Minister of Sustainable Resource Management to convey concerns identified in the Committee's report. The Committee expressed general concerns that legislative changes serve to protect the long term viability of agricultural lands in a consistent manner across the Province.

On 2002 June 10, Council received further correspondence from the Minister of Sustainable Resource Management providing a response to the broad concerns previously conveyed to the Minister. In general, the Minister re-affirmed that legislative changes governing the operation of the Agricultural Land Commission and use of lands within the Agricultural Reserve would strengthen the protection of lands in the ALR, while being more regionally responsive. In addition, the Minister stressed that the operation of the Commission under a common legislative mandate, with the overview of the Executive Committee and the involvement of Commission staff would provide for consistent protection and management of the ALR across the regional panels.

On 2002 May 13, Council received correspondence from the Agricultural Land Commission advising of the introduction of the Agricultural Land Commission Act, the appointment of 19 new Commissioners, and the establishment of 6 regional panels each consisting of 3 Commissioners. On 2002 July 3, the Provincial Cabinet passed a resolution which will bring the *Agricultural Land Commission Act, 2002* and a new *Agricultural Land Reserve Use, Subdivision and Procedure Regulation* into force on 2002 November 1. On that date, local governments are expected to ensure that local practices, procedures and bylaws are consistent with the new legislation. The Agricultural Land Commission has advised that the Commission will hold local government training seminars in 2003 January to review implications of the new regulations and statutory changes in detail.

This report summarizes the substantive changes to the legislation and regulations governing the Agricultural Land Reserve and outlines preliminary implications for City administration and regulation of ALR lands in Burnaby. This report also requests Council authorization for staff to undertake a general review of required and recommended amendments to existing City procedures, policies and bylaws arising from the enactment of the new Agricultural Land Commission Act and Regulations.

2.0 SUMMARY OF LEGISLATIVE CHANGES

2.1 *Agricultural Land Commission Act, 2002*

The Agricultural Land Commission Act (the Act) is a new piece of legislation which replaces three acts (the Land Reserve Commission Act, the Agricultural Land Reserve Act, and the Soil Conservation Act) which previously established and governed the Agricultural Land Reserve. Sketch #1, *attached*, shows ALR lands in Burnaby. The new Act has retained sections of previous legislation and incorporates specific changes designed to implement the Core Review directions of the Provincial Government which include:

- ***Restructuring the Commission*** to enable the appointment of up to 19 Commissioners to the Agricultural Land Commission with 3 members appointed to each of 6 regional panels. Each panel has the full powers of the Commission.
- ***Delegation Agreements*** to extend existing provisions for the creation of voluntary delegation agreements for the exercise of certain Commission powers related to subdivisions and non-farm uses to local governments and other authorities.
- ***Replacement of the Soil Conservation Act*** through the inclusion of provisions within the new Act respecting soil removal and fill placement.

2.2 *Agricultural Land Reserve Use, Subdivision and Procedure Regulation*

The Provincial Cabinet has adopted a new Agricultural Land Reserve Use, Subdivision and Procedure Regulation which brings the new Act and Regulations into force on 2002 November 1. The new Regulation replaces all previous regulations under the Agricultural Land Reserve Act and the Soil Conservation Act. Specific changes incorporated in the Regulation include:

- A listing of *designation of farm uses* for lands in the ALR which local government may regulate but not prohibit. These designated farm uses include those permitted under the previous regulation, uses previously permitted by Commission policy, uses which the Commission previously generally approved under application, and select new uses. New permitted uses include seasonal agri-tourism activities, horse training and boarding, and the production and/or application of fertilizers, soil amendments, compost and bio-solids for agricultural purposes.
- A Listing of *non-farm uses* which are permitted in the ALR unless prohibited by a local government bylaw. Again, these permitted non-farm uses include those permitted under the previous regulation, uses previously permitted by Commission policy, and uses which the Commission previously generally approved under application. Examples of permitted non-farm uses include agri-tourism accommodation, a secondary suite in a permitted dwelling, conservation and park land, pet kennels, and telecommunications equipment buildings up to 100 square metres in size. The accommodation of non-farm uses within the ALR in Burnaby are subject to City regulation and control under the Burnaby Zoning Bylaw.
- Amended requirements *for soil removal and placement of fill* within the ALR. The new regulations and notification requirements have replaced the previous application process for a Soil Conservation Act permit for the specific listed farm and non-farm uses contained in the Regulation.
- Minor *adjustments to application fees* to establish a single fee for exclusion and non-farm use applications received by the City of \$600. Previous fees were \$750 for exclusion applications and \$550 for non-farm use applications. The share of the fee retained by the City has increased by \$50 to \$300 per application. The fee for applications received directly by the Commission remains at \$400 per application. The share of this fee remitted to the City for applications referred by the Commission to the City for review has also increased by \$50 to \$200.
- *No significant changes* were made in the Regulations to the application requirements and procedures for owners seeking approval for *exclusion or non-farm use* of lands in the ALR. Applicants are still required to follow generally established notification

procedures and to submit the application to the City for a Council resolution to authorize the application to proceed to the Commission for consideration. If Council authorization is not given to the application, the application does not proceed to the Commission for consideration.

3.0 PRELIMINARY IMPLICATIONS

The legislative and regulatory changes outlined above are consistent with the directions established by the Province through its Core Review process. The Province, while confirming the broad public interest in maintaining the ALR, has created new legislation and regulations that result in considerable changes to the governance structure, regulatory framework and processes of the Agricultural Land Commission.

Staff have undertaken a preliminary review of potential implications for Burnaby of the changes to ALR legislation and regulations. Staff expect to obtain additional information on the implications of changes to ALR procedures and regulations as the Commission releases further information and guidelines related to implementation of the new legislation and regulations, and at training seminars planned by the Commission for 2003 January. Based on the information available at this time, staff have identified the following areas of City involvement in the administration and regulation of lands within the ALR that may require adjustment to be consistent with the new legislation.

3.1 *Regulation and Prohibition of Agricultural/Farm Land Uses*

As noted in Section 2.2 of this report, the Act and Regulation defines a list of farm uses which are permitted in the ALR. These uses may be regulated by local government but must not be prohibited by any local government bylaw except by a bylaw under Section 917 of the Local Government Act. A bylaw under this section is subject to approval by the Minister of Agriculture under the terms of the existing Farm Practices Protection Act.

Under the Burnaby Zoning Bylaw, the City has a long established and successful practice of regulating agricultural uses within the ALR in the Big Bend to support the operation of market gardens and to limit the establishment of incompatible agricultural uses adjacent to urban residential areas. In order to maintain this approach over the longer term, the City is best advised to secure the approval of the Minister consistent with the prevailing legislation.

The Regulation also contains a list of non-farm/agricultural uses which are permitted in the ALR subject to local government regulation. As such, these non-farm uses continue to be subject to the Burnaby Zoning Bylaw. From a local Burnaby perspective, the changes to the Act and Regulation incorporated under this section do not impact the use of lands within Burnaby's ALR.

Issue for Review: Staff would propose to advance the process to secure Provincial recognition of the approach currently taken by Burnaby to regulated agricultural uses in Burnaby's Zoning Bylaw in reference to the prevailing Agricultural Districts (A1 - Agricultural District and A3 - Truck Gardening District).

3.2 Regulation of Fill Placement and Soil Removal

As noted above, the *Soil Conservation Act* has been replaced by provisions within the new Act and Regulation. The previous Soil Conservation Act stipulated that a person must not remove soil from or and place fill on land in the ALR without the approval of the ALC and the issuance of a permit by the local government. The regulations of the Soil Conservation Act also identified the specific circumstances related to agricultural use of the land where a permit was not required. Applications were received by the local government and referred to the ALC for approval. With ALC approval, the local government could determine whether or not to issue the required permit and could establish specific conditions for each permit.

This joint permitting process has now been replaced with specific notification procedures to the ALC for soil removal and fill placement within the ALR. In summary, the new Regulation has established that:

- an application or notification of the ALC is not required for soil removal and fill placement that is undertaken as part of a specified farm use.
- notification to the ALC is required for soil removal and fill placement of an area greater than 2% of the parcel for selected defined uses.
- other soil removal and fill placement activities that are not specifically addressed in the Regulation require an application though the City and Commission for approval of the non-farm use.

The regulation has established specific deadlines for the ALC to respond to notifications and application received. For notifications, the ALC must respond within 30 days. Should a response not be received by the owner within the 30 day period, the owner may proceed with the stated fill placement or soil removal program.

Staff have significant concerns regarding the new legislation in that it does not include a defined role for local government in the review and processing of notifications or applications for soil removal and fill placement within the ALR. Further, the Act and Regulation defines a broad range of soil removal and fill placement activities that are permitted outright without any requirement to notify or seek approval of the ALC.

From a City perspective, it is important for the City to be able to review and regulate the fill placement or soil removal activities in order to protect City infrastructure, maintain local drainage, and mitigate potential impacts of adjacent properties. In addition, monitoring of fill activities serves to ensure that fill materials meet requirements relative to the contaminated sites legislation which at this time is also undergoing a review process by the Province.

Issue for Review: Given the elimination of the previous joint application and review process for the control of fill placement and soil removal activities, the existing City Soil Deposit and Soil Removal Regulation Bylaws will be applied to regulate soil removal and fill activities on lands within the ALR. This will ensure that fill placement and removal activities in the ALR are adequately monitored with regard to City infrastructure and other interests, pending further review of the new ALR regulation and procedures established by the Commission for implementation. Staff review of the application of the existing City Fill Placement and Soil Removal Bylaws in relation to the new Act and Regulations governing the ALR will seek to determine whether any further adjustments are required or recommended with regard to City practices and procedures relative to the issue of soil placement/removal within the ALR.

3.3 Establishment of Delegation Agreements

The ALC is seeking to expand the use of provisions within the Act for the establishment of voluntary delegation agreements which would enable local government and other authorities to exercise select powers of the ALC related to approvals for subdivisions and non-farm uses within the ALR. The power to include and exclude lands from the ALR would remain with the ALC.

At the outset, staff would note that the City processes very few applications related to the ALR. In the past, the City and the Commission have been in general agreement on issues related to the management of the City's ALR lands based on the designation contained within the City's adopted Big Bend Development Plan. On this basis, there may be few benefits to the City of assuming the Commission's processing and decision making roles related to the processing of subdivision and non-farm use applications.

Issue for Review: Staff, however, would propose to further review the potential merits of a delegation agreement for the City.

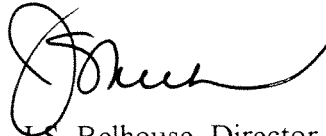
4.0 CONCLUDING COMMENTS

The core review of the Land Reserve Commission completed by the Provincial Government has reaffirmed the public interest in protecting and preserving agricultural lands within the provincial Agricultural Land Reserve. At the same time, the Provincial Government has pursued a legislative agenda related to the ALR with the intent of reducing regulations,

streamlining application processes, encouraging delegation of Commission powers to local governments and other authorities, and reducing the Commission overall budget and staffing levels by about 33% by 2004/05.

The substantive changes enacted by the Province through the new *Agricultural Land Commission Act, 2002* and the *Agricultural Land Reserve Use, Subdivision and Procedure Regulation* are scheduled to come into force on 2002 November 1.

This report has identified some preliminary areas of concern related to the new Act and Regulation. This report proposes that staff be authorized to undertake a detailed review of required and recommended amendments to existing City procedures, policies and bylaws arising from the enactment of the new Agricultural Land Commission Act and Regulations. In carrying out this review, staff would also enter into preliminary discussion with the staff of the Agricultural Land Commission on the nature of the future relationship of the City to the ALC in the management and regulation of lands within the Agricultural Land Reserve in Burnaby.

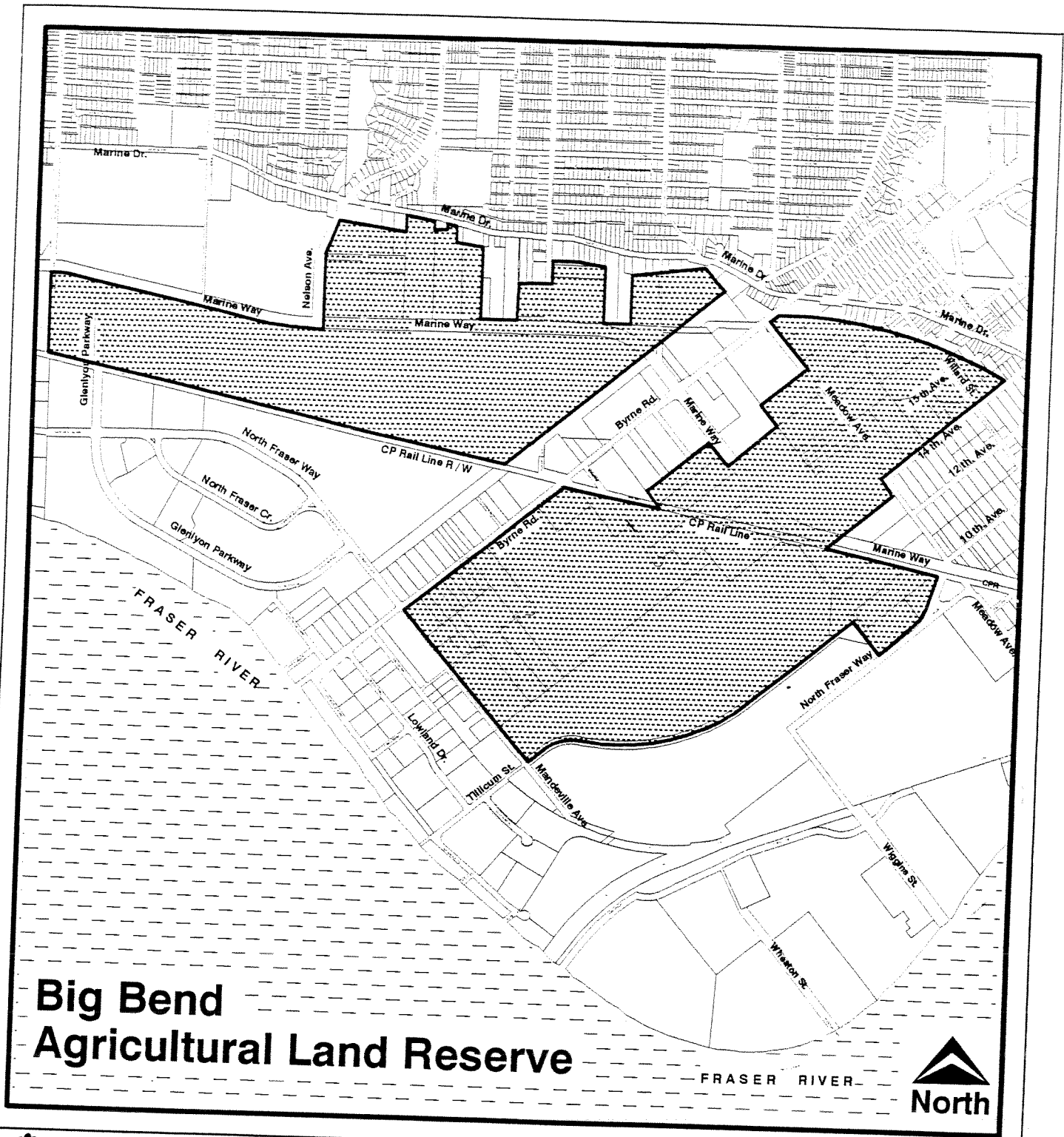


J.S. Belhouse, Director
PLANNING AND BUILDING

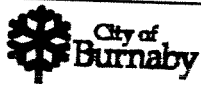
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Attachment (1)

cc: City Manager
Director Engineering
Director Finance
City Clerk



**Big Bend
Agricultural Land Reserve**



Planning And Building Department

Scale: 1 : 20 000
 Drawn By: J.P.C.
 Date: September 2001

Agricultural Land Reserve

Sketch # 1

