

FARM HOUSING DISCUSSION POINTS

1. OVERALL GOAL

- To increase food production and food security on Salt Spring Island.

2. OBJECTIVES

- To address the housing concerns raised in the AFP
- To guide the LUB revisions with respect to additional housing on working farms [Planner Justine Starke advised that the policy stage of the LUB review would be conducted after the 'technical' review stage, so policy stage in about 6 months]
- To determine whether the LTC could assume any additional responsibilities wrt farm housing approvals in the ALR, and if so, would that be desirable. [Planner Justine Starke says yes, LTC can assume responsibilities, with any doubtful cases being referred to the ALC. Question: Would the ALC have to approve the criteria/model the Trust plans to use to establish need if the LUB is going to permit LTC approval?]

3. DEFINITIONS

FARM HOUSING BC Definition: Additional Residence

A *building* on a farm used as a home or residence by:

1. One family, a member of which is a full-time employee of the farm or;
2. A member of the land owner's *immediate family*;
3. *Temporary farm worker(s)*.

SSI LUB 355 definition¹: “dwelling unit, farmworker's” means a dwelling unit that is accessory to a commercial farm business on a lot and is used for the residential accommodation of a farmworker permanently employed full-time in that farm business.

Suggested definitions:

ADDITIONAL FARM DWELLING

‘Additional Farm Dwelling’ is defined as any dwelling on a farm operation, additional to a single family dwelling, needed to improve the overall operational and/or financial viability of the farm operation. It includes attached or detached dwelling units, secondary suites, suites in farm buildings, cottages, trailers and mobile homes, and rooming house shared accommodation.

LANDOWNER

The entity—individual, family, partnership, corporation, cooperative, not-for profit, government agency, etc.—holding legal title to the lands used for the farm operation.

FARM OPERATION

SSI LUB 355 definition: “farm operation” means any of the following activities: growing, producing, raising or keeping animals or plants, including mushrooms, or the primary products of those plants or animals; clearing, draining, irrigating or cultivating land; using farm machinery, equipment, devices, materials, and structures; applying fertilizers, compost, manure, pesticides and biological control agents; intensively cultivating, in plantations, speciality wood crops or speciality fibre crops prescribed by the Minister of Agriculture; turf production; aquaculture; raising or keeping game, within the meaning of

¹ All LUB definitions from Salt Spring Island Land Use Bylaw 355, Office Consolidation February, 2007 BL412 (12/06)

the Game Farm Act, by a person licensed to do so under the Act; raising or keeping fur bearing animals, within the meaning of the Fur Farm Act, by a person licensed to do so under the Act; storage, processing or direct marketing by a farmer of the products of a farm business; but does not include any of the following: a forest practice defined in the Forest Practices Code of British Columbia Act; the sale of processed wood products, breeding pets or operating a kennel; or growing, producing, raising or keeping exotic animals as defined by the Minister of Agriculture.

Suggested definition:

FARM OPERATION (note: this suggested definition may be in conflict with the Right to Farm Act, which does not have, for example, any sustainability or organic production requirements, specifically allows for raising fur animals, turf production, etc. A copy of the full definition is on the last page.)

The environmentally-sustainable agricultural production of food and other products including animal feed, fibre, biofuel, flowers and herbs, and forest products including wood, the processing, storage and sale of these products, and agritourism. Farm operations shall follow organic and/or permaculture guidelines, practices and standards where applicable and practical. Activities may include the following: the ecological management of land for crop production including its cultivation, irrigation and drainage, seeding, planting, tending and harvesting of crops, non-intensive livestock husbandry, the preparation, storage and application of soil amendments, aquaculture, beekeeping, wildcrafting, selective harvesting (but not clearcutting or industrial forestry) and milling of wood products, greenhouse cultivation, cleaning, processing, cooking, packaging and storing of farm products, bed and breakfast (accessory to other activities), farm stand, use of farm machinery, and construction and use of farm buildings needed for the farm operation. Excluded activities are raising animals for fur, or for pets, kennels, riding establishments, intensive livestock operations such as confinement hog and poultry barns and feed lots, turf production, and use of GMOs and other prohibited substances as defined by the Canadian Organic Standard. Notwithstanding the above definition, farm operations located within the ALR may include any permitted farm uses as prescribed by the Minister of Agriculture.

FARM OPERATOR

The entity—individual, family, partnership, corporation, cooperative or not-for profit—responsible for the management of the farm operation.

FARMER

Any person contributing labour to the farm operation on a regular basis, regardless of whether the labour is full-time or part time, paid or unpaid, or by exchange or barter arrangement, or whether an owner or lessee. Under this definition WOOFERS are considered farmers for the duration of their stay on a particular farm.

LABOUR

In this context labour is the effort provided to the farm by an individual and must be a significant contribution, such as a minimum number of hours per week or per year, and/or the contribution of an essential service or services, such as evening inspection of crops, facilities or livestock, for an individual to be considered a farmer as defined above.

SSI LUB 355 definition: “dwelling unit” means one or more rooms in a building that are used, or constructed so as to be capable of being used for the residential use of a single

household; and containing a common access, one kitchen, and eating, sleeping and living areas.

SSI LUB 355 definition: “dwelling unit, affordable housing” is a deed restricted and/or a rent controlled dwelling unit that is secured by a housing agreement registered on title, and may include special needs housing and seniors dwelling units.

SSI LUB 355 definition: “farm building” means any building except a dwelling unit that is used in a farm operation for purposes other than human residential use or accommodation.

SSI LUB 355 definition: “farm business” means a use in which a farm operation is conducted by the farm operator on one or more lots in Salt Spring Island Local Trust Area.

SSI LUB 355 definition: “farm products” means raw or processed commodities or goods derived from the cultivation and husbandry of land, plants, animals (except pets and exotic animals) and any other similar activity including aquaculture that are grown, reared, raised or produced on a farm; and for this purpose does not include raw or processed timber.

SSI LUB 355 definition: “farm structure” means any structure that is part of a farm operation.

SSI LUB 355 definition: “mobile home” – Justine noted that the LUB definition should be changed to include ‘manufactured’ homes.

4. WHAT TYPES OF FARM HOUSING SHOULD BE CONSIDERED?

Table 1—Possible Types of SSI Farm Housing

	type	Pros	cons
1.	Three dwelling units on large farms > 20 ha and has farm status	<ul style="list-style-type: none"> • Two of the dwelling units have house people ‘deriving their livelihood from the farm business on that lot’. • Requires ALC approval if in the ALR. • Permitted by LUB 3.15 	<ul style="list-style-type: none"> • May add to speculative value of property unless limited by conditions
2.	Secondary suite(s) within existing Dwelling Unit (DU) or existing farm building (could include additions)	<ul style="list-style-type: none"> • Permanent housing for permanent or seasonal workers • Relatively low-cost • Already permitted in DU in ALR under current zoning and ALC regs • Low environmental impact • Does not reduce working farmland 	<ul style="list-style-type: none"> • Some farmers may have privacy issues if in DU • May be unsuitable for permanent farm workers (farmers) with children • Existing farm buildings may be in poor condition or structurally unsuited for secondary suite
3.	Cottage under 600 sq ft	<ul style="list-style-type: none"> • Permanent housing • Could conform to proposed ‘seasonal cottage’ conversion regs for affordable housing • Allowed on ALR land with permission from ALC if farm use (or by application to ALC for non-farm use) • could provide suitable accommodation for farm managers • Could apply for larger area through variance process 	<ul style="list-style-type: none"> • May not be large enough for families with children • Expensive if new septic field required • May add to speculative value of property unless limited by conditions • May need housing agreement, development permit, or covenant to conform to proposed affordable housing regs • May need non-farm use application to ALC

Possible Types of SSI Farm Housing (cont)

	type	pros	cons
4.	Additional attached or detached dwelling unit(s)	<ul style="list-style-type: none"> • Permanent housing • May meet needs for additional owner-occupied housing on larger farm operations, e.g. farm partnerships, coops • Attached DUs in courtyard or row configuration adjacent to existing DU could have low environmental impact and emulate the practicality of old European farm models 	<ul style="list-style-type: none"> • May require density transfer and rezoning, or changes to the LUB to allow LTC to approve based on farming need. • Expensive if new septic field(s) and other infrastructure required • May add to speculative value of property unless limited by conditions of DP or HA. • Housing agreement, development permit, or covenant needed • Enforcement issues if change from farm use
5.	Rooming house / shared accommodation (4 or more bedrooms)	<ul style="list-style-type: none"> • Permanent housing • May meet needs for flexible housing on larger farm operations, e.g. farm partnerships, coops • Could provide B&B income if rooms not needed for farmers 	<ul style="list-style-type: none"> • May require density transfer and/ or changes to the LUB • May add to speculative value of property unless limited by conditions • Housing agreement, development permit, or covenant needed • Enforcement issues if change from farm use • Expensive
6.	Manufactured home (note: conflict in ALC regs regarding single or double-wide).	<ul style="list-style-type: none"> • Permanent housing often indistinguishable from site-built DU • Quick and good quality construction 	<ul style="list-style-type: none"> • Expensive if new septic field required • May require density transfer and/ or changes to the LUB • May add to speculative value of property unless limited by conditions • Housing agreement, development permit, or covenant needed • Enforcement issues if change from farm use
7.	Mobile home on temporary foundation	<ul style="list-style-type: none"> • Suitable for year-round occupancy • Removable if no longer needed • Permitted by ALC regs • Permitted by LUB 	<ul style="list-style-type: none"> • Expensive if new septic field required • Restricted to family member or farm workers if in ALR • LUB definition regarding service connections needs clarification
8.	Trailer	<ul style="list-style-type: none"> • Inexpensive summer accommodation • Permitted under current ALC regulations and LUB • Many farm operations use trailers 	<ul style="list-style-type: none"> • Prone to mould problems • unsuitable for winter and long-term accommodation • LUB definition regarding service connections needs clarification • Maximum 90 days in zone that permits camping (i.e. A1 only).

Table 1—Possible Types of SSI Farm Housing (cont)

	type	pros	cons
9.	Sleeping cabin / cob cabin	<ul style="list-style-type: none"> • Inexpensive, may be constructed by farmers • Low environmental impact • Provides better shelter than a yurt or tent • Suitable for vacationers and summer farmers • May not require building permit if under 100 sq ft 	<ul style="list-style-type: none"> • Does not meet definition of a DU • May be unsuitable for winter and long-term accommodation • May not meet standards for temporary farm worker housing • Must provide separate kitchen, toilet and shower facilities
10.	Yurt / tent on platform	<ul style="list-style-type: none"> • Inexpensive summer camping • Low environmental impact • May be permitted under current regulations • Suitable for vacationers and summer farmers • May not require building permit if under 100 sq ft 	<ul style="list-style-type: none"> • May not meet standards for temporary farm worker housing • unsuitable for winter or long-term accommodation • yurt not considered a camping unit because not transportable. • Difficult to get BP if not engineered.

5. WHERE SHOULD FARM HOUSING BE LOCATED?

Table 2—Possible Location of SSI Farm Housing

Location	pros	cons
Within or attached to existing farmhouse (or farm building)	<ul style="list-style-type: none"> • Low environmental impact • Does not reduce working farmland • Modest impact on speculative value • Could be suite above barn if ‘farm building’ definition used 	<ul style="list-style-type: none"> • Some farmers may have privacy issues
Within home plate* (See explanation below)	<ul style="list-style-type: none"> • Clusters development in one area and defines a property growth boundary • Reduces loss and/or fragmentation of working land • Reduces servicing costs • Reduces environmental impact • Moderate impact on speculative value 	<ul style="list-style-type: none"> • SSI does not use Home Plate definition (although OCP supports clustering) • Topography may not permit clustering • May require change to LUB • Possible privacy concerns
On non-farmed part of property	<ul style="list-style-type: none"> • Most farms have non-farmed forested areas, often steeply sloped and unsuitable for agriculture • May be suitable for walk-in campsites and cabins 	<ul style="list-style-type: none"> • May have high environmental impact if land-clearing, new road and services are required • Permanent DUs may have high impact on speculative value, even if use limited by conditions • Not recommended by IT Staff, would need to be restricted to non-arable areas.
On farmable part of property	<ul style="list-style-type: none"> • May be convenient to roads and services, and for farm work 	<ul style="list-style-type: none"> • Reduces farmable area • Not permissible for land in ALR

Off-farm housing	<ul style="list-style-type: none"> • Permanent or temporary • No regulatory involvement if existing • Low environmental impact, except for increased automobile use 	<ul style="list-style-type: none"> • Lack of availability • Expensive, farmer may not be able to afford rent and transport • Reduced non-cash benefits for farmer e.g. food, proximity to work, quiet • farmer needs transportation • Inconvenient for late-night checks, emergencies, long hours, etc.
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HOME PLATE

*“If a local government uses the home plate concept in their bylaws all accessory farm residential facilities, including new TFWH, must be on a declared home plate contiguous to a home plate of an existing residence unless otherwise authorized by a development variance permit.

If a local government does not use the home plate concept in their bylaws, the maximum setback for new TFWH is 15 metres from the primary residence and 60 metres from an existing road or other access unless otherwise authorized by a development variance permit.”

6. WHEN IS ADDITIONAL FARM HOUSING JUSTIFIED?

Table 3—Possible criteria for SSI Farm Housing

<p>PART A Is the farm a bona fide farm operation? Satisfactory responses to most of the below should be provided, with allowances made for start-up operations. Should provide for flexibility in unit measures and link need to production. Could expand traditional ‘farm plan’ (business plan) model to include food security measures, e.g. a permaculture plan.</p>		
Criteria	Pros	Cons
Farm Class	<ul style="list-style-type: none"> • Limits FH to bona fide farm operations • Reduces risk that the housing is used for non-farm purposes • Easy requirement for farm to meet 	<ul style="list-style-type: none"> • This criterion alone is not adequate since many ‘farms’ may not warrant FH • Some farms may not have farm status because of new assessment regs • Start up farm operations may not have farm status
Farm Management Plan	<ul style="list-style-type: none"> • Alternative to Farm Class for start-up operations and others that do not have farm status • Useful tool for any farm operation • Indicates that farm operation is business-like 	<ul style="list-style-type: none"> • May be challenging for old-time legitimate farm operators to produce
Age of farm operation	<ul style="list-style-type: none"> • Indicates proven viability of farm operation 	<ul style="list-style-type: none"> • Does not assist start up operations
Proof of production e.g. sales receipts or farm records of quantity and type of crop	<ul style="list-style-type: none"> • Indicates viability of farm operation • Basis for estimate of labour needs (quantity, seasonality, intensity). 	<ul style="list-style-type: none"> • Does not assist start up operations • Great variation in factors that determine labour requirements.
Background of farm operator	<ul style="list-style-type: none"> • Indicates whether or not the farm operator has education and/or experience and/or other skills relevant to managing a farm operation 	<ul style="list-style-type: none"> •

Table 3—Possible criteria for SSI Farm Housing (cont)

PART B Description and type of existing accommodation and reason for request Identifies on-site accommodation available for farmers and reason for request		
List: Principal DU—size, number of bedrooms and bathrooms Suite within existing DU or farm building? Cottage? Trailer/cabin/other?		
Stated reason for request:		
PART C Is there proof of need? The table below to be expanded/revised so that the primary proof of need is production oriented. While this is somewhat addressed in Part A (proof bona fide operation through production), this section could focus more on <u>quantifying</u> the labour needs based on actual or planned production. The needs can then be compared to the housing on site, and the amount/type of housing being applied for. Perhaps easier said than done, but ranges or benchmarks could be developed or applicant proposed figures being evaluated. For example, is it reasonable to have 3 on-site farm workers to tend 6,000 sq.ft. of greenhouse? Maybe not normally, but if applicants are required to provide a rationale, maybe there is breeding program, intensive intercropping, succession planting, on-site compost making and some value-added processing. Job descriptions and time estimates could be provided to justify any requests that are not obvious. Parts B and C together should determine whether or not there is a need for additional accommodation		
Criteria	Pros	Cons
Number of current farmers, part time farmers, and seasonal farmers	<ul style="list-style-type: none"> • May be demonstrated by farm records • May be compared with existing accommodation 	<ul style="list-style-type: none"> • Does not assist start up operations • Does not assist expanding operations • May be difficult to correlate with production
Age or infirmity of farm operator	<ul style="list-style-type: none"> • Easy to demonstrate 	<ul style="list-style-type: none"> • Changes over time
Farm operator consists of more than one farm family	<ul style="list-style-type: none"> • Easy to demonstrate if legal farm corporation, partnership or coop and • Members are also farmers 	<ul style="list-style-type: none"> • Not all members of a farm operator entity may be farmers • While this may demonstrate the need for housing for owners, it does not necessarily demonstrate need because it's not based on actual or planned production
Type of farm operation requires more on-site supervision	<ul style="list-style-type: none"> • Easy to demonstrate for certain types of operation e.g. dairy, greenhouse production 	<ul style="list-style-type: none"> • May be difficult to demonstrate for some farm operations
Existing trailer or other accommodation is sub-standard	<ul style="list-style-type: none"> • If existing trailer has been occupied by a farmer for some time, need is demonstrated 	<ul style="list-style-type: none"> • Farm operators may be reluctant to report sub-standard accommodation • Could trigger by-law enforcement
Cannot find farmers willing to commute	<ul style="list-style-type: none"> • May be demonstrated by employment records, if available 	<ul style="list-style-type: none"> • Difficult to prove, unless employment records available
Farm operation needs seasonal help	<ul style="list-style-type: none"> • Easy to demonstrate for most operations 	<ul style="list-style-type: none"> •
Work Duration & Pattern	* see below	* need to tie this criterion to the proximity criterion and to the time sensitivity criterion
Commodity & its sensitivity to time	* examining each commodity could clarify which	* could not use only this criteria in making a decision. Other factors like

	commodities need ‘round the clock care’ or immediate attention in case of a ‘failure’ in the production system and thus warrant an ADFE. e.g. Poultry vs Carrots Greenhouses vs Potatoes	proximity to an urban centre must also be considered
Minimum Est. Level of Operation	* can distinguish between the hobby farm or operation that doesn’t need an employee to live on the farm and an operation that truly needs an employee to live on the farm	* commodities can be so variable in their needs that setting a limit would not take all the variations into account. What about mixed operations? * How do staff verify the numbers?
Other reason	• Allows for unique circumstances	•
PART D Type, number and location of housing requested? Greater justification may be required for certain types and locations of DU and multiple DUs		
Criteria	Pros	Cons
1. Secondary suite within existing Dwelling Unit (DU) or existing farm building (could include additions)	• Easy to permit	
2. Cottage under 600 sq ft	• Easy to permit where current zoning allows	•
Etc. See Table 1 for 9 possible types of farm housing		

7. HOW TO ENFORCE NON-COMPLIANCE?

Table 4—Possible tools for SSI Farm Housing enforcement

Tool	Pros	Cons
Statutory declaration	<ul style="list-style-type: none"> • Easy for farm operator to file annual statutory declaration • puts onus on owner to be honest in their intent (moral suasion) • Does not require title encumbrance 	<ul style="list-style-type: none"> • Needs legal review and opinion on remedies available. • May not be easy to enforce if not in compliance
Remove/ decommission TFH if not used by temporary farm workers for 2 consecutive years	<ul style="list-style-type: none"> • Reduces the risk that TFH will be used for permanent accommodation and/or converted to non-farm housing • If not used, can convert from housing to allow for other non-housing uses. 	<ul style="list-style-type: none"> • Possible enforcement issued • Decommissioning may limit the building for other legitimate farm uses
A deposit to remove or decommission FH	<ul style="list-style-type: none"> • Enables the local government to remove manufactured homes if the landowner refuses to 	<ul style="list-style-type: none"> • Upfront costs impact farmer and eats into line of credit • Option for taxes applied to the property

	remove the FH when it is no longer needed	should be considered
Housing agreement	<ul style="list-style-type: none"> • Enables the local government to restrict tenure, price, 'class' of residents (presumably farm employment can be defined as a class?), and method of selection residents. • Secured by Section 219 covenant registered on title • Performance can be monitored by regular or periodic statutory declaration. • Mechanisms for enforcement can include orders to comply, obtaining court orders for performance, injunctions, fine and imprisonment(!) in cases of breach of zoning bylaws, rent charges registered on title, establishment of 'liquidated damages' (not 'penalties'), and the right to enforce payments due as a contract debt in court. 	<ul style="list-style-type: none"> • Requires housing authority (or other body) to administer • Administration costs will be incurred • May encounter resistance from farmers
Covenant on title	<ul style="list-style-type: none"> • Can have provisions for legally enforceable 'rent charges' if covenant is breached. • Can be discharged is housing is removed. 	<ul style="list-style-type: none"> • May encounter resistance from farmers
Other?	<ul style="list-style-type: none"> • 	<ul style="list-style-type: none"> •

8. ENFORCEMENT ISSUES

Following from **Determining the Need for Additional Dwellings for Farm Employees DISCUSSION PAPER— Resource Management Branch, Ministry of Agriculture, Food and Fisheries, May, 2001**

Definitions & terms

To help clarify what is meant in the following pages, a list of definitions is provided below.

Additional Dwelling for Farm Employee (ADFE)	means a <i>building</i> located on a lot with <i>farm class</i> , that is accessory to the <i>principal dwelling</i> and is for the accommodation of an employee or employees paid to work on a <i>farm operation</i> .
Building	means any <i>structure</i> , wholly or partially enclosed by a roof or roofs, supported by walls, columns, or posts.
Farm Class	means a lot that is classified as “farm” under the <i>BC Assessment Act</i> , as amended or replaced from time to time.
Full Time	means paid labour conducted in the time period of 35 hours per week averaged over each month for a period of 12 months.
Principal Dwelling	means the main <i>building</i> used to accommodate a <i>resident</i> .
Farm Operation	as defined under the <i>Farm Practices Protection (Right to Farm) Act</i>
Resident	means a person who establishes a permanent home in a place.
Structure	means any construction fixed to, supported by, or sunk into land or water, but excludes concrete and asphalt paving or similar surfacing of a lot.
1 person equivalent employed at a full time level	means the amount of <i>full time</i> work that would be conducted by the equivalent of one person.

Right to Farm Act definitions:

"farm operation" means any of the following activities involved in carrying on a farm business:

- (a) growing, producing, raising or keeping animals or plants, including mushrooms, or the primary products of those plants or animals;
 - (b) clearing, draining, irrigating or cultivating land;
 - (c) using farm machinery, equipment, devices, materials and structures;
 - (d) applying fertilizers, manure, pesticides and biological control agents, including by ground and aerial spraying;
 - (e) conducting any other agricultural activity on, in or over agricultural land;
- and includes
- (f) intensively cultivating in plantations, any
 - (i) specialty wood crops, or
 - (ii) specialty fibre cropsprescribed by the minister;
 - (g) conducting turf production
 - (i) outside of an agricultural land reserve, or
 - (ii) in an agricultural land reserve with the approval under the *Agricultural Land Commission Act* of the Provincial Agricultural Land Commission;
 - (h) aquaculture as defined in the *Fisheries Act* if carried on by a person licensed, under Part 3 of that Act, to carry on the business of aquaculture;
 - (i) raising or keeping game, within the meaning of the *Game Farm Act*, by a person licensed to do so under that Act;
 - (j) raising or keeping fur bearing animals, within the meaning of the *Fur Farm Act*, by a person licensed to do so under that Act;
 - (k) processing or direct marketing by a farmer of one or both of
 - (i) the products of a farm owned or operated by the farmer, and
 - (ii) within limits prescribed by the minister, products not of that farm,to the extent that the processing or marketing of those products is conducted on the farmer's farm;
but does not include
 - (l) an activity, other than grazing or hay cutting, if the activity constitutes a forest practice as defined in the *Forest and Range Practices Act*;
 - (m) breeding pets or operating a kennel;
 - (n) growing, producing, raising or keeping exotic animals, except types of exotic animals prescribed by the minister;

"farmer" means the owner or operator of a farm business;

"farm business" means a business in which one or more farm operations are conducted, and includes a farm education or farm research institution to the extent that the institution conducts one or more farm operations;