



STAFF REPORT TO COMMITTEE

DATE OF REPORT October 4, 2024
MEETING TYPE & DATE Electoral Area Services Committee Meeting of October 16, 2024
FROM: Development Services Division
Land Use Services Department
SUBJECT: Application No. ALR23E01 (4005 Rowe Road/PID: 009-649-557)
FILE: ALR23E01

PURPOSE/INTRODUCTION

The purpose of this report is to re-introduce Agricultural Land Reserve (ALR) Application No. ALR23E01. This application proposes to allow a subdivision of the property located at 4005 Rowe Road (PID: 009-649-557). The proposed subdivision requires an application to the Agricultural Land Commission (ALC File No. 67689).

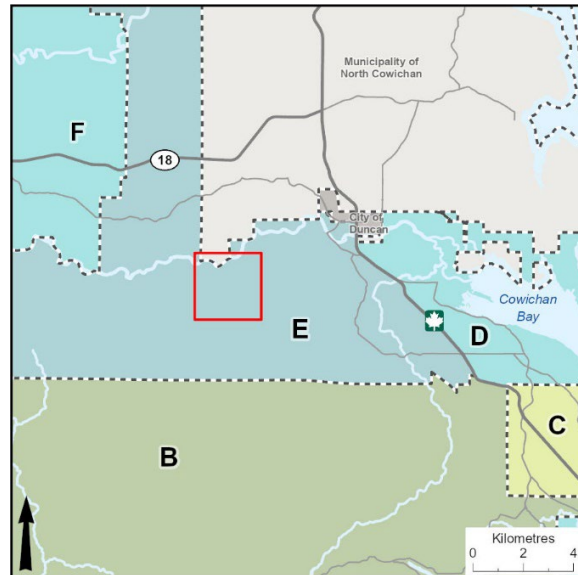
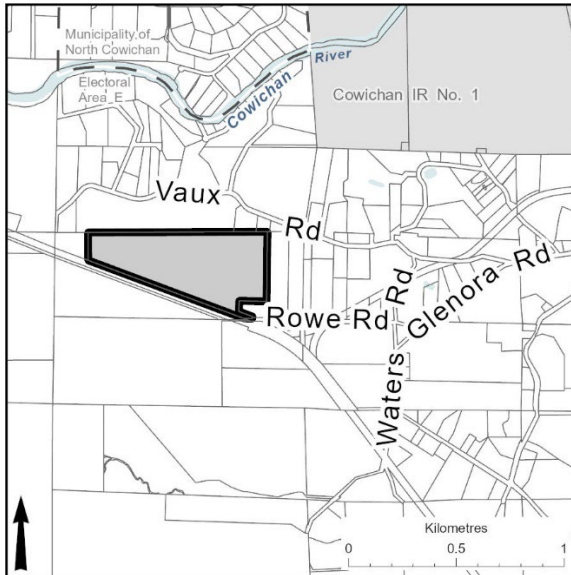
This application was last considered by the EASC at the [February 21, 2024 meeting](#), and was subsequently referred to the Electoral Area E – Cowichan Station/Sahtlam/Glenora Advisory Planning Commission (APC).

RECOMMENDED RESOLUTION

That it be recommended to the Board that Application No. ALR23E01 (4005 Rowe Road, PID: 009-649-557) for a subdivision along the Agricultural Land Reserve (ALR) boundary be forwarded to the Agricultural Land Commission (ALC) with the following comments:

1. With respect to Subdivision Option 1 – The CVRD advises that this option is inconsistent with the existing Official Community Plan policy and zoning and, therefore, is not supported;
 2. With respect to Subdivision Option 2 – The CVRD advises that while this option is inconsistent with existing Official Community Plan policy, it is consistent with existing zoning which permits further subdivision; and
 3. If the ALC authorizes a subdivision, the CVRD recommends that the ALC require the following as a condition of subdivision:
 - a. An access easement and covenant, in favour of the ALC, consistent with Access Route - Option 2 be registered with priority over Proposed Lot 1 in favour of Parcel A for residential and farm vehicle access, and over Parcel A in favour of Proposed Lot 1 for access to Rowe Road.
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LOCATION MAP



BACKGROUND

The subject property is 55.31 acres (approx. 22.38 ha) in size and is accessed from Rowe Road. A 1.0 ha portion of the property was excluded from the ALR in 1983.

The EASC last considered this application on [February 21, 2024](#), and on February 28, 2024, the Board approved a resolution to forward the application to the Electoral Area E – APC for comment. The APC conducted a site visit and held a meeting on June 11, 2024.

A local government must authorize an application for subdivision within the ALR to be forwarded to the ALC for approval before a final decision on the subdivision is made by the Provincial Approving Officer.

The applicant has submitted two subdivision plans for the CVRDs consideration. *Option 1* is to subdivide the 0.9 ha excluded portion of the property, with an additional 884 m² panhandle access strip (see Attachment B). *Option 2* is proposed as a subdivision along the ALR boundary; however, MoTI may require road dedication (see Attachment C). Road right-of-way dedication and construction in the ALR is regulated by the *Agricultural Land Commission Act and Regulation*.

MoTI's last feedback to the applicant was to seek written confirmation from the ALC to confirm acceptance of road right of way within the ALR.

Additional Information Following the June 11, 2024, Site Visit:

At the June 11, 2024, APC site visit meeting, staff observed that some land clearing and internal driveway/private road construction had occurred. The applicant has since supplied an assessment (Attachment G) from a Professional Geoscientist to document the potential applicability of the *Riparian Areas Protection Regulation (RAPR)* and *Water Sustainability Act*.

The applicant has also provided alternative options (Attachment D) for the access easement. Should the ALC authorize the subdivision application, a Development Permit will be required prior to final subdivision approval.

OFFICIAL COMMUNITY PLAN/POLICY CONSIDERATIONS

Official Community Plan for Electoral Areas Bylaw No. 4270:

The subject property is designated *Renewable Resource – Agriculture* and this designation is intended to accommodate and recognize the provincial ALR regulations that permit a variety of farming and non-farming activities.

The Official Community Plan (OCP) identifies agriculture as an important sector of the economy and essential to rural ambience. Lands designated as *Renewable Resource – Agriculture* are intended to accommodate and recognize the provincial ALR regulations that permit a variety of farming and non-farming activities, including basic production of agricultural products, value-added production activities and agri-tourism.

Relevant OCP policies include:

4.2.1(14.) states that the CVRD will discourage subdivision of farm parcels and lands within the ALR unless for farm purposes.

The applicant submits that the remainder of the Rowe Road property will be used to grow crops and will remain in the ALR. Since the portion with the panhandle is the only access to the property, they are proposing a covenant to ensure that the area will remain as access in perpetuity.

Subdivision Option 2 and Subdivision Option 1 both include a 220.4 m² road dedication which constitutes a loss of ALR lands. Further, an access easement across the ALR portion of the access impacts the ability to utilize this area for agricultural purposes.

Development Permit Area:

A Development Permit may be required to ensure the subdivision proceeds in a manner consistent with the guidelines contained within applicable Development Permit Areas (DPA's).

- DPA 1 – Riparian
- DPA 2 – Sensitive Ecosystems
- DPA 4 – Aquifer Protection
- DPA 8 – Protection of Farming

In February 2024 staff reported that DPA 1 and 2 are likely not applicable, based on a 2019 assessment from Cascadia Biological Services (Attachment E) concluding that the seasonally wet areas on the subject property do not meet the characteristics of a wetland as defined in CVRD Bylaw No. 1840.

On August 14, 2024, a subsequent report from a *TRE Environmental Services* was provided documenting that some of the water features on site (e.g. outflow surface water) would qualify under the *Riparian Areas Protection Regulation (RAPR)* and noted that further field investigation would be necessary to confirm the applicability of *RAPR* to non-exempt activities.

A development permit (including further field investigation) will be necessary prior to final subdivision approval as subdivision is not an exempt activity under *RAPR*.

CVRD Electoral Area E – Cowichan Station/Sahtlam/Glenora Zoning Bylaw No. 1840:

The subject property is split-zoned Primary Agriculture (A-1) and Agricultural 7 (A-7).

- Section 7.3 establishes the regulations for the A-1 Zone, and states that the minimum parcel size is 12 ha.
- Section 7.10 establishes the regulations for the A-7 Zone, and states that the minimum parcel size is 0.8 ha.

The 2019 CVRD-initiated zoning amendment which rezoned the ALR-excluded portions of the property from I-2 ([Heavy Industrial](#)) to A-7 ([Agricultural 7](#)) was intended to remove the industrial zoning from the subject property and replace it with an agricultural zone that would allow for

subdivision along the boundary of the ALR. The A-7 zone was designed to be identical to the A-1 zone with the exception of minimum lot size so that when/if the lands are subdivided, there would be no conflict between land uses.

Agriculture Land Reserve Applications Policy, 2009:

ALR subdivision applications which are subject to CVRD bylaws will only be forwarded to the ALC if:

1. The minimum parcel size regulation is complied with; or
2. If the minimum parcel size regulation is not complied with, the ALR applicant must apply for the necessary bylaw amendments and receive at least first reading.

Despite being inconsistent with the Official Community Plan, Option 2 is consistent with existing zoning so the CVRD Board can forward the application to the ALC for a decision.

ALC Information: Subdivisions Near Agriculture

The ALC recently updated its [subdivision guide](#) and [ALC Bylaw Review Guide](#). The review guides notes that the ALC generally prefers large minimum parcel sizes, as this ensures that the widest range of options are available for agricultural uses and discourages the use of ALR land for rural residential purposes.

Land Title Act:

Part 7, Division 2, Section 75 of the *Land Title Act (LTA)* details requirements for subdivisions (including necessary and reasonable access); Part 7, Division 2, Section 76 of the *LTA* clarifies that there are some circumstances where an Approving Officer can provide relief from compliance with all or part of the *LTA* access provisions described in Section 75 (1) (a) or (b).

Subject to the CVRD Board first advancing the application to the ALC, the Provincial Approving Officer will determine if the proposed Access by easement for a subdivision within the ALR (to limit the loss of available farm land) is acceptable.

COMMISSION / AGENCY / DEPARTMENTAL CONSIDERATIONS

Internal Referrals:

In accordance with the [CVRD Development Application Referrals Policy](#), this application has not been referred to external agencies.

The application was referred to internal divisions; no objections were received (see Attachment E).

The applicant has shown two options for the location of an access. The applicant has also advised that they are prepared to provide an easement and covenants as a condition of ALC and/or Provincial Approving Officer approval should such agreements be required.

Advisory Planning Commission Referral:

At the June 11, 2024, Meeting the APC passed the following motion:

That the Advisory Planning Commission supports forwarding Application No. ALR23E01 to the Agricultural Land Commission (ALC) with the following comment from the Advisory Planning Commission:

- a) *In addition to the recommendation of CVRD staff, that the existing derelict mobile be removed as a condition of ALC approvals.*

Staff have reviewed the property file and determined that the structure in question was permitted as an accessory office building in the 1980's and is permitted to remain on the property.

PLANNING ANALYSIS

The strengthening of food and agricultural systems for food security is identified as a key CVRD goal within the Official Community Plan. To achieve this goal, the OCP includes policies to encourage local agricultural production and the preservation of the ALR.

Section 4.1.1(2.) General Development Objectives of the OCP states that *“New roads, utility corridors and community uses, such as schools and recreation facilities, should be directed to non-agricultural lands unless no alternative exists, in which case community uses may be supported in fringe areas where the impact on agriculture is either mitigated or minimized.”*

A subdivision along the Boundary of the ALR for PID 009-649-557 (Attachment C – Subdivision Option 2) will isolate a portion of the ALR lands that will be utilized for access for both lots. There are presently no other alternatives for access; further, this area is presently used for access purposes.

The August 2024 report from TRE Environmental Services identifies that some of the water features on site are subject to the *Riparian Areas Protection Regulation (RAPR)*. If this application advances, further field investigation will occur as part of the Development Permit process (which must be completed prior to final subdivision approval).

Staff have advised the applicant that subdivision will trigger a RAPR Assessment and CVRD Development Permit (DPA 1). Since the applicant is proposing an access by easement it is possible that the proposed easement location is not possible given RAPR constraints. The applicant has provided alternative options (Attachment D) should the Development Permit conditions trigger changes to the proposed access route.

OPTIONS

Option 1:

That it be recommended to the Board that Application No. ALR23E01 (4005 Rowe Road, PID: 009-649-557) for a subdivision along the ALR boundary be forwarded to the Agricultural Land Commission (ALC) with the following comments:

1. With respect to Subdivision Option 1 – The CVRD advises that this option is inconsistent with the existing Official Community Plan policy and zoning and, therefore, is not supported;
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 - a. An access easement and covenant, in favour of the ALC, consistent with Access Route - Option 2 be registered with priority over Proposed Lot 1 in favour of Parcel A for residential and farm vehicle access, and over Parcel A in favour of Proposed Lot 1 for access to Rowe Road;

Option 2:

That it be recommended to the Board that Application No. ALR23E01 (4005 Rowe Road, PID: 009-649-557), be forwarded to the Agricultural Land Commission without comments.

Option 3:

That it be recommended to the Board that Application No. ALR23E01 (4005 Rowe Road, PID: 009-649-557), not be forwarded to the Agricultural Land Commission.

Prepared by:



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Reviewed by:



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Reviewed for form and content and approved for submission to the Committee:

Resolution:

☒ Corporate Officer

Financial Considerations:

☒ Chief Financial Officer

ATTACHMENTS:

Attachment A – ALC Submission
Attachment B – Subdivision Option 1
Attachment C – Subdivision Option 2
Attachment D – Access Route Options
Attachment E – Internal Referral Comments
Attachment F – 2019 Wetland Assessment
Attachment G – 2024 WSA & RAPR Report