



COWICHAN
VALLEY
REGIONAL
DISTRICT

REFERRAL REPORT

DATE OF REPORT May 31, 2024

FROM: Development Services Division
Land Use Services Department

SUBJECT: Application No. ALRE01 (4005 Rowe Road)

REFERRAL TO: Advisory Planning Commission

FILE: ALRE01

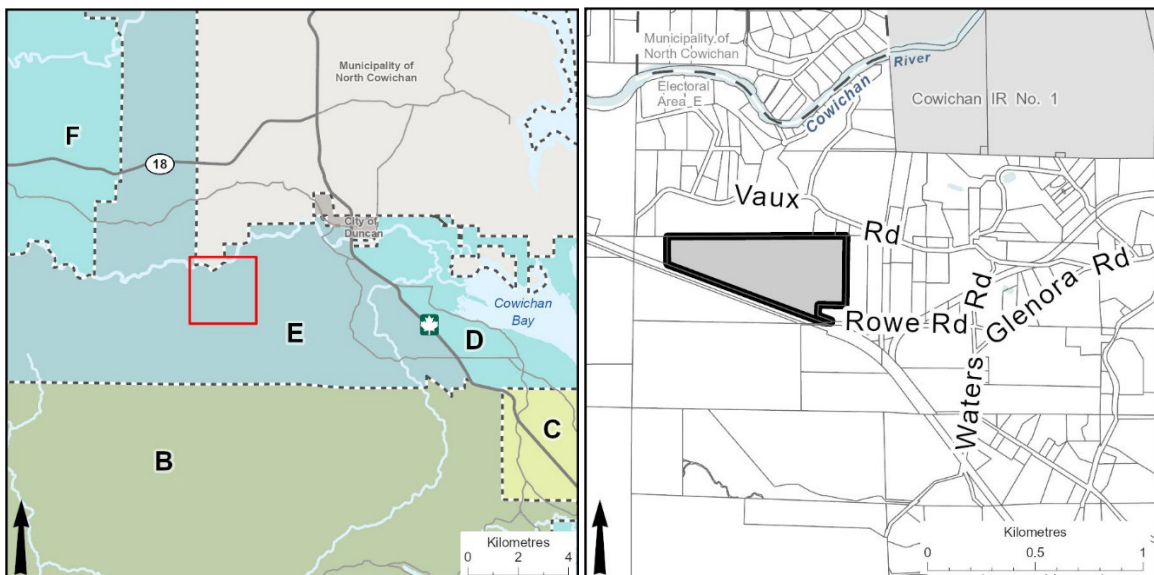
INTRODUCTION

The purpose of this report is to present an 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 Electoral Area Services Committee (EASC) considered a preliminary report on this file on [February 21, 2024](#) and the Board has advanced the application to external agencies for comment/feedback prior to considering of the application.

The proposed subdivision (option 2) is permitted by the existing zoning bylaw; however, subdivision requires an application to the Agricultural Land Commission (ALC File No. 67689). Before an application can proceed to the Agricultural Land Commission a resolution from the local government is also required.

LOCATION MAP



BACKGROUND

The subject property is 55.31 acres (approx. 22.38 ha) in size and is accessed from Rowe Road.

A 0.9 ha portion of the property was excluded from the ALR in 1983 for the purposes of subdividing the land; however, a 0.19ha access panhandle which is necessary to provide access to the 0.9 ha exclusion area was not included in the original approvals.

In 2018, an application was submitted to exclude the land from the ALR. The 2018 application was referred to the Electoral Area E – Cowichan Station/Sahtlam/Glenora Advisory Planning Commission.

This application was last discussed by the APC at their May 14, 2019, meeting. The APC passed the following two motions:

Moved and seconded that the application be denied out of concern for future industrial uses following subdivision.

If the applicant's desire is to subdivide the I-2 portion of the property for a family member, the APC would welcome an opportunity to review a future subdivision application that would include a rezoning of the I-2 portion to a residential designation as supported in the current OCP.

Following the APC's recommendations, the CVRD Board denied the application and directed that an amendment bylaw be prepared to rezone the industrial portion of the property to agricultural/residential, and to allow for subdivision potential along the boundary of the Agricultural Land Reserve.

A CVRD-initiated zoning amendment was initiated with the owner's consent to rezone the I-2 portion to a residential designation. This application introduced at the July 17, 2019, [EASC meeting](#). The amendment bylaw (No. 4285) was adopted on November 27, 2019.

The subdivision was supported by the former official community plan; however, the CVRD adopted a new official Community Plan in 2021. The new OCP does not support further subdivision; however, zoning presently allows further subdivision.

APPLICATION SUMMARY

On February 22, 2023, the applicant is asking that the CVRD Board allow their subdivision application to proceed to the Agricultural Land Commission (ALC) for a decision. CVRD staff have recommended that the application for a subdivision along the ALR boundary be forwarded to the Agricultural Land Commission (ALC) with the following comments:

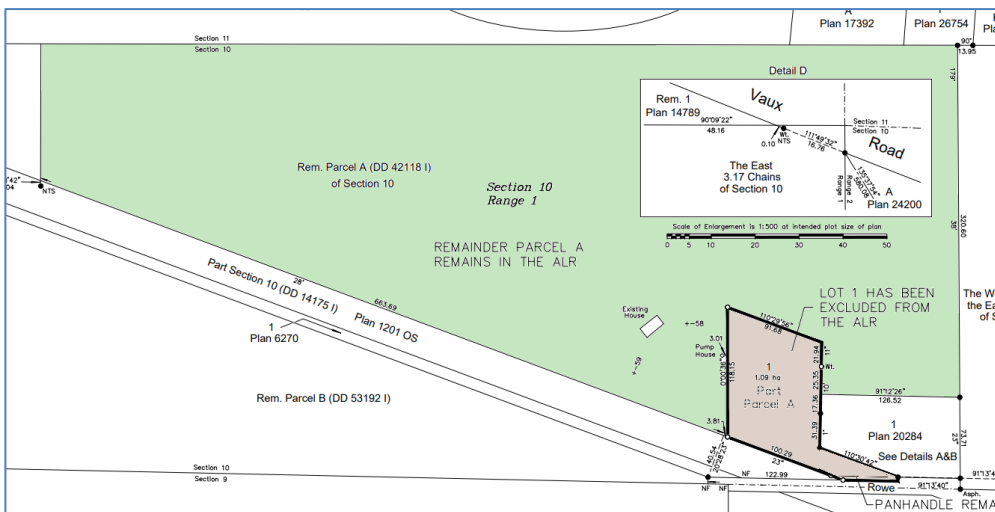
1. With respect to *Subdivision Option 1* – The CVRD advises that this option is inconsistent with the existing Official Community Plan policy and zoning and, therefore, is not supported. 2
2. With respect to *Subdivision Option 2* – The CVRD confirms that this option is inconsistent with existing Official Community Plan policy and consistent with existing zoning. 3
3. If the ALC authorizes a subdivision, the CVRD Board recommends that the ALC require the following as conditions of a subdivision:
 - a. An access easement and covenant 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; and

- b. That the access easement includes a provision requiring consent of the Agricultural Land Commission prior to any modification or discharge, to ensure that lands within the ALR remain viable for agriculture.

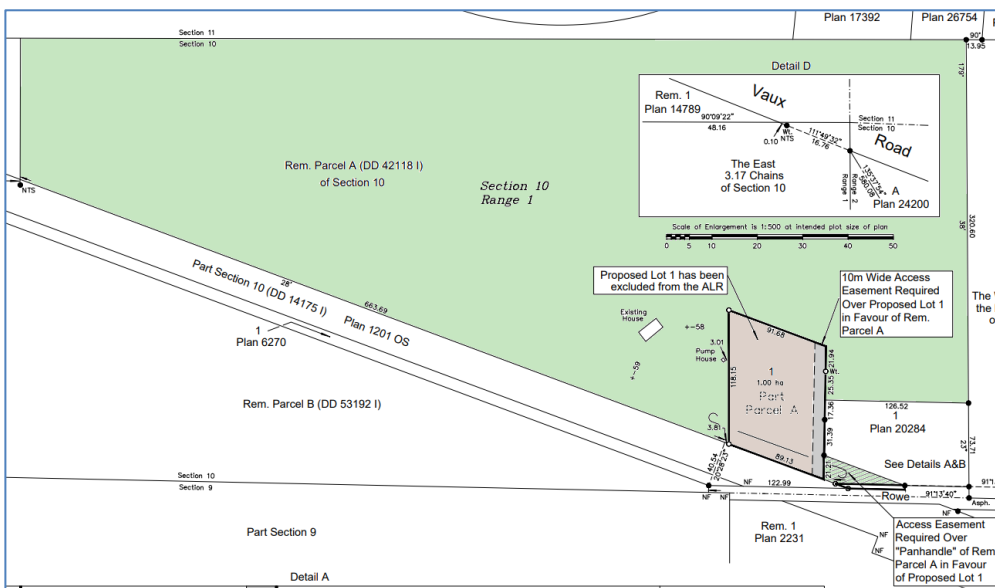
The CVRD Board considered the application at their February 28, 2024 meeting and directed that the application be forwarded to the Electoral Area E – Cowichan Station/Sahtlam/Glenora Advisory Planning Commission for comment.

Subdivision Proposals:

"Subdivision Option 1" proposes subdivide the 0.9 ha excluded portion of the property, with an additional 884 m² panhandle access strip. This application would create a split-zoned parcel that is partially in the ALR. This proposal is not permitted under the Zoning Bylaw (No. 1840) as a portion of the parcel would be zoned A-1 (Primary Agricultural) which requires a minimum lot size of 12.0 ha.



"Subdivision Option 2" proposes to subdivide the 0.9 ha excluded portion of the property and not include the 884 m² panhandle access. The panhandle accesses would remain part of the larger farm parcel. Access easements would be required.



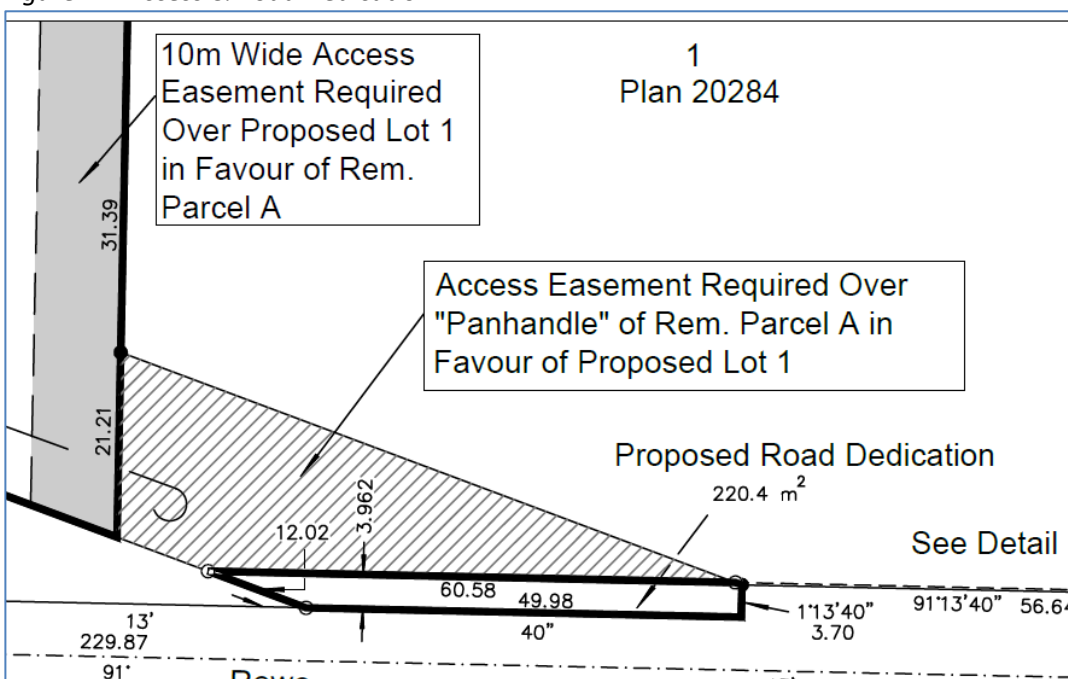
Subdivision Option 2 is proposed as a subdivision along the ALR boundary; however, MoTI may require road dedication. Road right-of-way dedication and construction in the ALR is regulated by the *Agricultural Land Commission Act and Regulation*. MoTI's last feedback to the applicant was to seek written confirmation from ALC to confirm acceptance of road right of way within the ALR. MoTI clarified that an ALC Subdivision application would have to be submitted to achieve the subdivision of the road right of way, and for MoTI to consider whether the subdivision of Proposed Lot 1 with no road frontage is supportable.

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 for a decision, 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.

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.

Figure 1 – Access & Road Dedication



POLICY & REGULATORY 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 agent 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.

Development Permit Area:

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

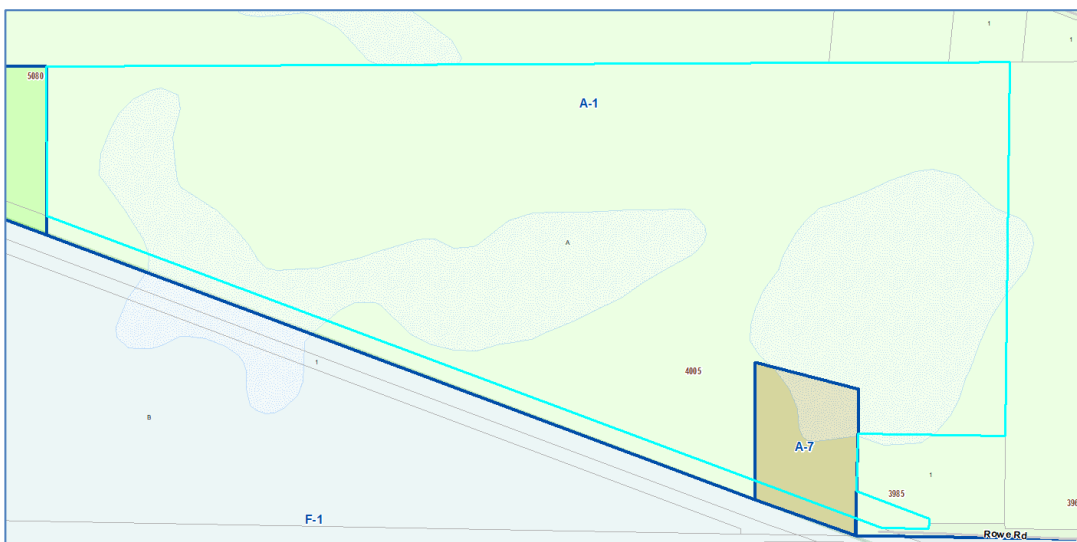
- DPA 1 – Riparian
- DPA 2 – Sensitive Ecosystems
- DPA 4 – Aquifer Protection
- DPA 8 – Protection of Farming

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.

Figure 2 – Zoning Map



CVRD 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.

The “Subdivision Option 1” proposal (to include the 884m² panhandle access as part of the new lot) does not comply with the minimum parcel size for the Primary Agriculture (A-1) zone.

The applicant was encouraged to revise their ALR Subdivision proposal to ensure consistency with the 2019 zoning bylaw amendment. In response, the applicant provided “Subdivision Option 2”. 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.

CONCLUSION

We would appreciate receiving any comments and recommendations you may have regarding this application so they can be incorporated into a report that will be prepared for a future Electoral Area Services Committee (EASC) meeting, where the CVRD Area Directors will consider the application.

The APC has the responsibility of providing recommendations to the Board and acting as the citizens’ voice in the planning process. Although the APC has no particular decision-making powers of its own, it may provide advisory comments and/or feedback for the CVRD Board to consider.

The CVRD Board has several options for this application:

1. Send the Application to the ALC with Comments
2. Send the Application to the ALC without Comments
3. prevent the application from proceeding to the ALC
4. Defer a decision and request additional information

Sample APC Motions:

Option 1: Send the Application to the ALC with Comments

The Electoral Area E – Cowichan Station/Sahtlam/Glenora Advisory Planning Commission recommends that the CVRD Board forward Application No. ALR23E01 to the Agricultural Land Commission (ALC) with the following comments:

- a) [comments to be provided by the APC]

Option 2: Send the Application to the ALC without Comments

The Electoral Area E – Cowichan Station/Sahtlam/Glenora Advisory Planning Commission recommends that the CVRD Board forward Application No. ALR23E01 to the Agricultural Land Commission (ALC) without comments,

Option 3: prevent the application from proceeding to the ALC

The Electoral Area E – Cowichan Station/Sahtlam/Glenora Advisory Planning Commission recommends that the CVRD Board not forward Application No. ALR23E01 to the Agricultural Land Commission (ALC) for a decision

Option 4: Defer a decision and request additional information

The Electoral Area E – Cowichan Station/Sahtlam/Glenora Advisory Planning Commission recommends that the CVRD Board request the following information prior to forwarding Application No. ALR23E01 to the Agricultural Land Commission (ALC):

- a) [additional information to be recommended by the APC]

Should you require any further information or have questions regarding the application, please contact the undersigned.

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Land Use Services Department
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Attachments:

- Attachment A – ALC Submission
- Attachment B – Subdivision Option 1
- Attachment C – Subdivision Option 2
- Attachment D – Internal Referral Comments
- Attachment E – Environmental Assessment