



CITY OF RICHMOND

REPORT TO COUNCIL

TO: Richmond City Council

To Council - Sept. 11, 2000

DATE: September 8th, 2000

FROM: Councillor Malcolm Brodie, Chair
Planning Committee

FILE: AG 00-086824

RE: **AGRICULTURAL LAND RESERVE APPEAL APPLICATION BY RICHBERRY FARMS LTD. FOR EXCLUSION AT 20471, 20491, 20511, 20531, 20551, 20571 AND 20591 WESTMINSTER HIGHWAY**

The Planning Committee, at its meeting held on Wednesday, September 6th, 2000, considered the attached report, and recommends as follows:

COMMITTEE RECOMMENDATION (OPPOSED: Cllr. Barnes, Steves)

That Richberry Farms Ltd. be authorized to apply to the Agricultural Land Reserve Commission for the exclusion of properties at 20471, 20491, 20511, 20531, 20551, 20571 and 20591 Westminster Highway.

Councillor Malcolm Brodie, Chair
Planning Committee

Attach.

VARIANCE

Please note that staff recommended the following:

That authorization for Richberry Farms Ltd. to apply to the Land Reserve Commission for exclusion be denied.

STAFF REPORT

ORIGIN

Kabel Atwall of Khevin Development Services Ltd. has applied on behalf of Richberry Farms Ltd. to exclude 20471, 20491, 20511, 20531, 20551, 20571 and 20591 Westminster Highway from the Agricultural Land Reserve (ALR).

Attachment 1 shows the location of the subject properties. To the immediate north is the new Richview Golf Centre, to the west is the Choice Learning Centre, to the east are the offices and farm buildings of Richberry Farms, and to the south is Westminster Highway and Highway 91.

Attachment 2 is the applicant's submission in support of the exclusion application.

Attachment 3 provides a brief overview of the zoning and application history in the area.

FINDINGS OF FACT

ITEM	EXISTING	PROPOSED
Owner	Richberry Farms Ltd.	Undetermined
Applicant	Kabel Atwall, Khevin Development Services Ltd.	No Change
Site Size	Seven 0.35 ha (0.86 ac) lots Total Area = 2.45 ha (6.05 ac)	Undetermined
Land Uses	Currently Unused (Previously Farmed As Blueberries)	Undetermined
OCP Designation	Agriculture	Undetermined
ALR Designation	Within The ALR	Exclude From the ALR
Zoning	Agricultural District (AG1)	Undetermined
Canada Land Inventory Agricultural Capability Rating	Class 04 ⁶ _w - 05 ⁴ _w	Undetermined

RELATED POLICIES & STUDIES

Section 21 of the Agricultural Land Commission Act (ALCA) states: "Restrictions on the use of agricultural land do not apply to land that, on December 21, 1972, was, by separate certificate of title issued under the Land Registry Act, R.S.B.C. 1960, c. 208. less than 2 acres in area".

The applicant has not been able to demonstrate that these seven lots were on separate certificates of title, thus each one is subject to the ALCA. According to a recent title search, each lot is now on a separate certificate of title and has been owned by Richberry Farms Ltd. since 1985.

Agriculture Land Reserve Procedure Regulation 452/98 specifies the process for an owner to apply to exclude land from the ALR. Included in these regulations are requirements for posting a sign on the land, advertising in the newspaper and serving notice of the application to the immediately adjacent property owners.

The applicant has completed these requirements and City staff are not aware of any comments/concerns from the public.

STAFF COMMENTSLand Use

The subject properties are designated Agriculture in the Official Community Plan (OCP). To exclude these properties from the ALR would be contrary to the following objectives and policies of the OCP:

- "Continue to protect all farmlands in the Agricultural Land Reserve."
- "Support the Agricultural Land Commission in its efforts to maintain the integrity of the Agricultural Land Reserve and its existing boundaries, for both soil bound and non-soil bound agriculture (e.g. greenhouses)."
- "Encourage adjacent land uses that are compatible with farm uses and ensure that their impacts on farmlands, e.g. water runoff, will be minimized."
- "Limit the subdivision of farmland and investigate ways to encourage the consolidation of lots in the ALR, for example in the McLennan agricultural area."

Development Applications

Sanitary sewer is unavailable. No other servicing concerns.

Health Department

Development of site will require the approval of an on-site sewage disposal system. Recommend that if lands are excluded from ALR that zoning for these properties not permit schools, parks, playgrounds or health care facilities due to the aerial spray buffer requirements. To our knowledge, this requirement is still in effect despite the golf driving range construction.

ANALYSIS

Although the applicants put forth a compelling argument for their application, staff can not support the exclusion of 20471, 20491, 20511, 20531, 20551, 20571 and 20591 Westminster Highway from the ALR on the following grounds:

1. To exclude these properties from the ALR would be contrary to the Agriculture designation, objectives and policies in the OCP.
2. The subject area has an agricultural capability rating which indicates organic soils that, with a wetness limitation, can be used for a reduced range of vegetables, cereal grains and berry fruits, forages, permanent pasture and selected speciality crops.
3. The suitability of these lots for agriculture is demonstrated that up until 1995 they were used for blueberry production and two of the lots still benefit from a farm assessment.
4. The subject properties could be consolidated together into a 2.45 ha farm or could be utilized individually for non-mechanical agriculture (e.g. blueberries that are hand-picked and sprayed on the ground; greenhouses similar to those located west of Dhillon Way; etc.).
5. It would appear that all seven properties are subject to the ALCA even though each is less than 2 acres in area (unlike Richview Golf Centre where the applicant was able to prove that three of the lots were on separate certificates of title, which was a factor in the approval of the location of the new parking area and building).
6. Although each lot could be sold separately, it is unlikely a purchaser would want to locate a new residence immediately adjacent to a golf driving range (especially with its night lighting).
7. The applicant has given no indication what the properties would be used for should they be excluded from the ALR and how this may impact the farmlands to the east.

8. If a non-school use was located on the westerly lots next to the Choice Learning Centre, a reduced buffer may be permitted for aerial spraying (as was the case with the Richview Golf Centre).
9. The exclusion of these properties would set an undesirable precedent for other similar applications in the area (e.g. Choice Learning Centre at 20411 and 20451 Westminster Highway; Alabon Country Kennels at 20391 Westminster Highway; etc.).

FINANCIAL IMPACT

None to the City.

CONCLUSION

Kabel Atwall of Khevin Development Services Ltd. has applied on behalf of Richberry Farms Ltd. to exclude 20471, 20491, 20511, 20531, 20551, 20571 and 20591 Westminster Highway from the ALR. Although the applicants have their reasons for applying for exclusion (e.g. small size of the lots; limitations to aerial spraying; isolation of the properties from the rest of the cranberry operation; restrictions on the use of machinery due to ground and soil conditions; etc.), they have not indicated what the properties would be used for. Staff cannot support this application on the grounds outlined in this report.

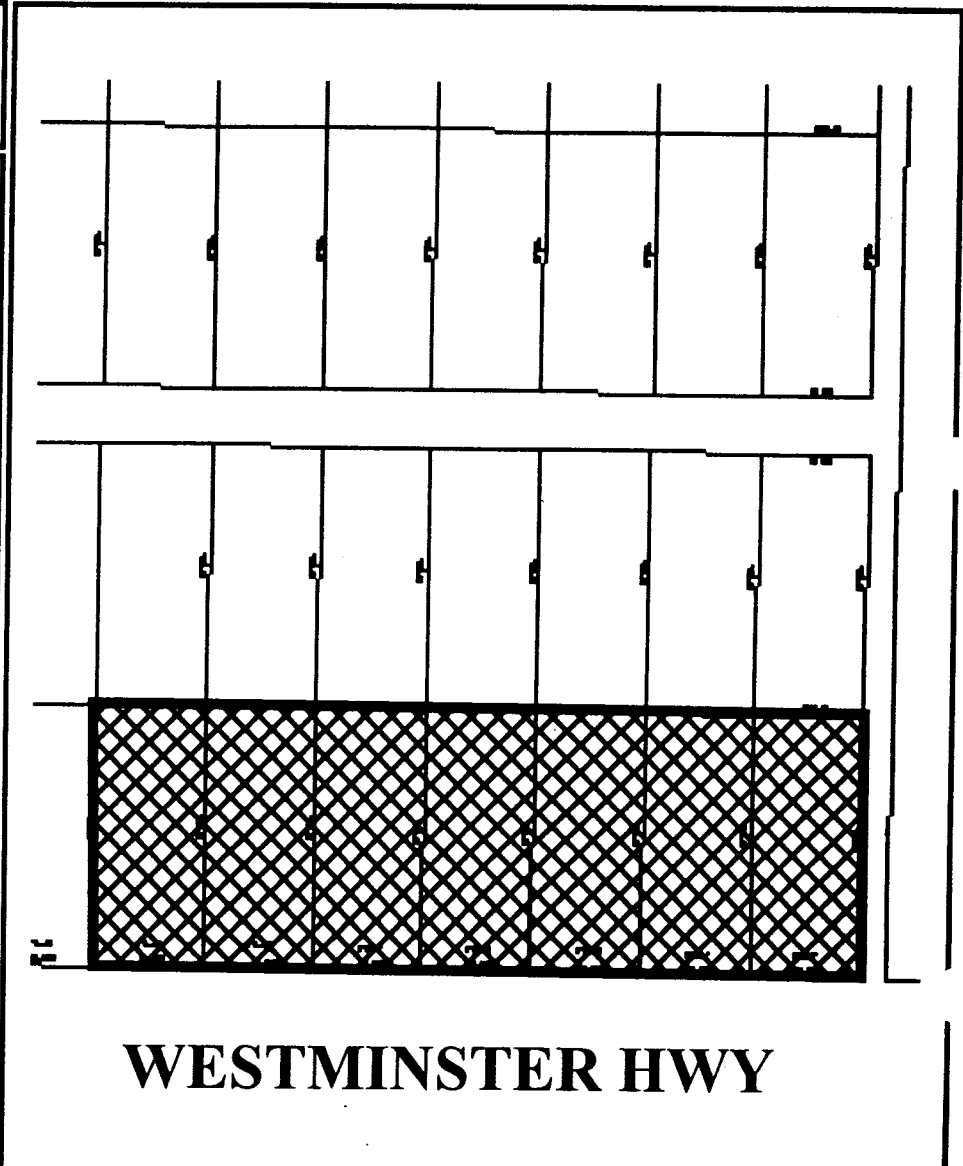
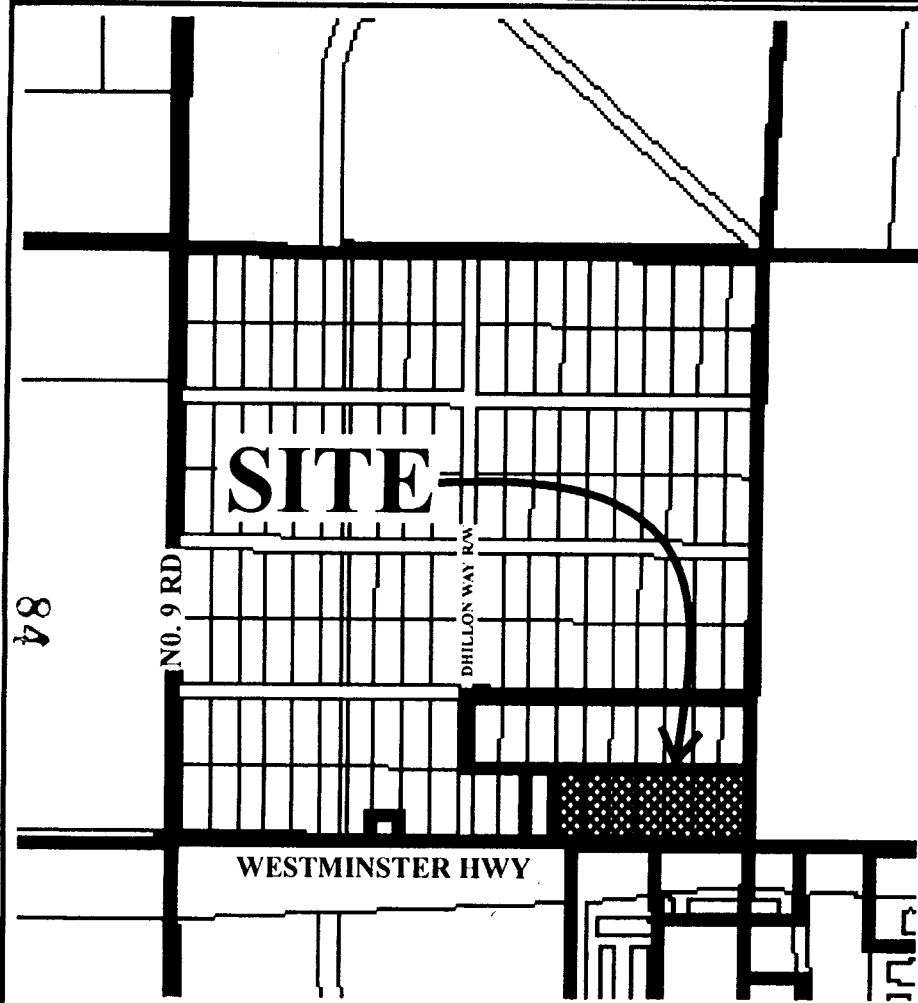


Holger Burke, MCIP
Development Coordinator

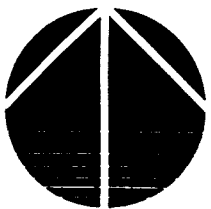
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City of Richmond



ATTACHMENT 1



AG 00-086824

Original Date: 03/30/00

Revision Date:

Note: Dimensions are in METRES

ATTACHMENT 2**INTENT**

Khevin Development Services Ltd., on behalf of Richberry Farms is applying under Section 12 (1) of the Agricultural Land Commission Act to exclude 2.5 hectares of land from the Agricultural Land Reserve.

LEGAL DESCRIPTION

The subject area is comprised of 7 legal parcels described as:

Lots 71 to 77, Section 4, Block 4North, Range 4West, Plan 1593, New Westminster Land District

Each lot is approximately .36 hectares in size.

LOCATION

The properties are located in East Richmond. Their civic addresses are 20471, 20491, 20511, 20531, 20551, 20571, 20591 Westminister Highway.

EXISTING LAND USE

The properties are part of Richberry Farms. Richberry Farms currently farms approximately 121 ha. of land in the immediate vicinity. These lands are used primarily for cranberry production.

The properties are currently unused. They had been utilized for blueberry production, but for reasons that will be outlined later, they were taken out of production.

SURROUNDING LAND USES

To the immediate north of the properties is a driving range. To the south is Westminister Highway and then the East-West connector.

To the east are the offices and farm buildings for Richberry Farms. To the west is a private school and dog kennel.

HISTORY

As noted earlier, Richberry Farms have a large agricultural operation in the area. While these lands had primarily being utilized for cranberries, in the past the subject properties were used for blueberry production. However, because of new regulations under the Ministry of Environment's Pesticide Control Act introduced in 1993 which prohibited

spraying with 500 metres of schools, the lands had to be taken out of production due the proximity of the private school.

The location of the school, in fact, could have had a dire effect on the cranberry operations because over half of the land in production would have fallen within the 500 meter "no spray" zone. Through discussions with the ALC, MOE, and the City of Richmond, a solution was found whereby the driving range use was utilized as a buffer between the school and the cranberry lands, thus neutralizing the 500 meter no spray zone as it applied to the cranberry lands to the north.

This solution, however, did not resolve the situation with respect to the subject properties. They were and still are subject to the restrictions.

It must be noted that the school is located on property that had an Assembly District zoning from Richmond to cover a previous church use. As schools were allowed under this zoning designation, no approval of Richmond or the ALC was required for that use. The implications of that use, as noted above, were substantial and are still being felt today.

While the driving range, which was approved the ALC and located on Lots 61 to 70, did allow for full utilization of the cranberry lands to the north, it isolated the subject properties from the remainder of the farm.

The subject properties have poor soil structure and are not conducive to mechanized farming. Any type of tractor and other farm equipment tends to get bogged down. As a result, the only way that the blueberries that were grown on the site could get tended to was through aerial means and hand picking. Given the location of the school, aerial spraying is no longer possible and with the conversion of the other blueberry lands to the driving range, it was no longer economical to tend to the subject lands by non mechanical means.

Therefore, the lands were taken out of blueberry production and have been unused since 1995.

RATIONALE FOR EXCLUSION

The imposition of the 500 meter no spray zone surrounding the school has had a far greater effect on the subject lands than it did on the cranberry lands in so far as that impact was mitigated by the driving range. No such opportunity existed for the subject properties.

The mitigative measures for the cranberry lands further impacted the subject properties in that they were isolated from the remainder of the agricultural operations and lost all connectivity to these lands. The properties are too small to used for any sustainable operation by themselves.

Ground and soil conditions restrict the use of machinery on the site and this further restricts the use of the lands for agricultural purposes.

The exclusion of the lands would have little effect on the agricultural operations in the area as the properties are on the periphery of the ALR on its southern boundary and are isolated by the properties used for agricultural purposes by the school, driving range, and office building.

It should also be noted that the subject properties are comprised of 7 individual lots of .36 ha. in size. The potential exists for all of them to be sold individually and as all are located along Westminster Highway, building permits would be obtainable. This again would further restrict their agricultural potential.

SUMMARY

It can clearly be seen that the past issues with respect to the school and the restrictions on aerial spraying have resulted in the agricultural potential of the subject properties being severely restricted. The mitigative measures instituted to protect the cranberry lands isolated the subject properties from the remainder of the ALR and the remainder of the lands being used for agricultural purposes. Combined with their small size and the number of individual titles, it is very doubtful if the lands will ever be utilized for agricultural purposes.

This is an issue that should have been recognized earlier and the appropriate action taken. The properties were not isolated or rendered useless for farming by any action taken by Richberry Farms Ltd. The problem was brought on the location of the school adjacent to agricultural lands and the imposition of aerial spraying restrictions. In trying to save the larger and more productive cranberry lands, the subject site was severely impacted from an agricultural perspective to the point where it is not possible to use the lands for agricultural purposes.

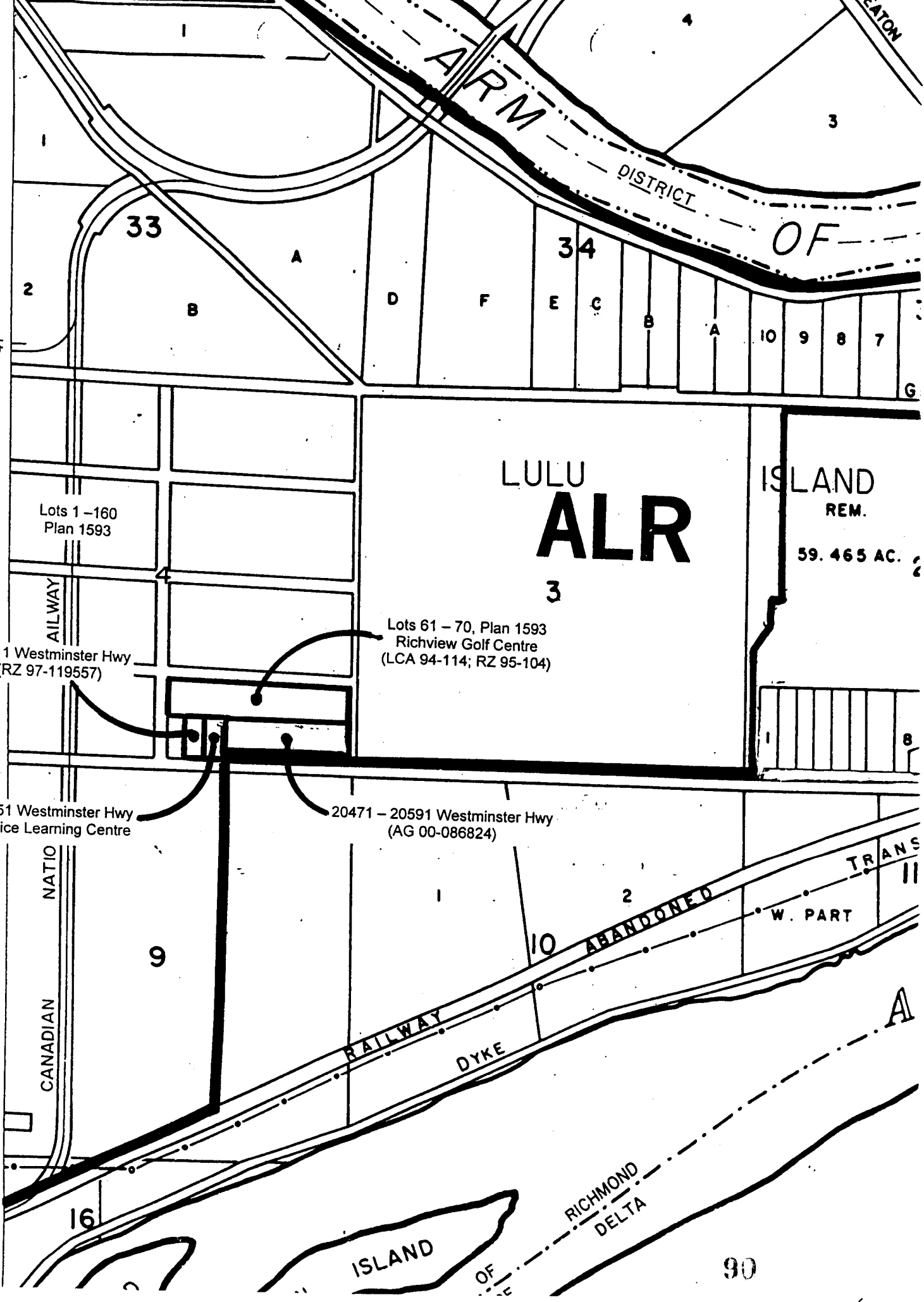
Accordingly, the land should be excluded from the ALR.

ZONING AND APPLICATION HISTORY IN THE AREA
(Richberry Farms Ltd. AG 00-086824)

- 1910 - Plan 1593 creating 160 lots, each approximately 0.86 ac. in size, and associated road right-of-ways (which are still not constructed) registered in the Land Title Office.
- 1972 - Agricultural Land Commission Act legislation enacted and area north of Westminster Highway subjected to the Agricultural Land Reserve (ALR) except parcels under 2 acres on a separate certificate of title (see attached ALR map).
- 1981 - A church is built on 20451 Westminster Highway, which is a permitted use in the Agricultural District.
- 1983 - Zoning and Development Bylaw is amended to specifically exclude churches as a permitted use in the Agricultural District zones and the Assembly zone is created to accommodate existing and new churches. 20451 Westminster Highway is rezoned Assembly District.
- 1985 - Richberry Farms Ltd. acquires the seven lots under application for exclusion (20471, 20491, 20511, 20531, 20551, 20571 and 20591 Westminster Highway). These lots are put into blueberry production along with the lots to the immediate north, while the area further north is utilized as a cranberry farm.
- 1992 - Choice Learning Centre acquires 20451 Westminster Highway and converts the existing church to a private school, which is permitted under the Assembly District.
- 1993 - Various discussions between Richberry Farms Ltd., Ministry of Environment and City of Richmond regarding the Ministry's regulation that no aerial spraying can take place within 500 m of a school (e.g. yearly exemptions; 30 m buffer for residential and other non-school uses; etc.).
- 1994 - Kabel Atwall of Khevin Development Services Ltd. applies on behalf of Richberry Farms Ltd. to locate a golf driving range between the Choice Learning Centre at 20451 Westminster Highway and their cranberry operation to the north. It is noted that Lots 61, 62 and 63 of Plan 1593 are exempt from the ALR because they were on a separate certificate of title on December 21, 1972 and this is where the new parking lot and building are to be located. Lots 64 to 70, Plan 1593 would contain the driving range itself.
- City of Richmond supports this application for a non-farm use in the ALR (LCA 94-114). This application was also supported by the Richmond Farmers Institute because the aerial spraying regulations adjacent to a school will be problematic to Richberry Farms Ltd. cranberry operation.
- 1995 - Land Reserve Commission approves LCA 94-114 subject the following conditions: Lots 61 to 70 of Plan 1593 be consolidated into one parcel or bound by a restrictive covenant prohibiting the sale of any individual lot without the others; the new parking lot and building be located on Lots 61, 62 and 63, Plan

1593 which are exempt from the ALR; and a berm, vegetative screening and netting be installed along the northern property line of the golf driving range.

- Kabel Atwall of Khevin Development Services Ltd. applies on behalf of Richberry Farms Ltd. to rezone Lots 61 to 70, Plan 1593 from Agricultural District to Golf Course District in order to permit a golf driving range.
- 1996 - Rezoning Application RZ 95-104 to accommodate the Richview Golf Centre is approved by the City of Richmond.
- 1997 - Choice Learning Centre applies to rezone 20411 Westminster Highway from Agricultural District to Assembly District in order to add a high school to their private school at 20451 Westminster Highway. The subject area is currently used as a school playfield.
- City denies Rezoning Application RZ 97-119557 from the Choice Learning Centre.
- 2000 - Kabel Atwall of Khevin Development Services Ltd. applies on behalf of Richberry Farms Ltd. to exclude 20471, 20491, 20511, 20531, 20551, 20571 and 20591 Westminster Highway from the ALR (AG 00-086824).



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Lots 61 - 70, Plan 1593
Richview Golf Centre
(LCA 94-114; RZ 95-104)

Lots 1 - 160
Plan 1593

20411 Westminster Hwy
(RZ 97-119557)

20451 Westminster Hwy
Choice Learning Centre

20471 - 20591 Westminster Hwy
(AG 00-086824)

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