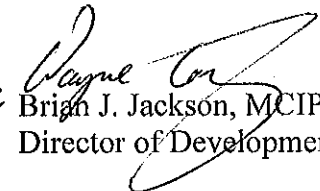




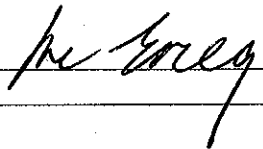
To: Planning Committee **Date:** May 20, 2009
From: Brian J. Jackson, MCIP **File:** AG 06-355496
 Director of Development
Re: **Agricultural Land Reserve Exclusion Application by Roland Hoegler (acting agent for Stuart Taylor) at 8600 No. 4 Road**

Staff Recommendation

That authorization for Roland Hoegler (acting agent for Stuart Taylor) to apply to the Agricultural Land Commission for exclusion of 8600 No. 4 Road (AG 06-355496) from the Agricultural Land Reserve be denied.

for 
 Brian J. Jackson, MCIP
 Director of Development

BJJ:ke
 Att.

FOR ORIGINATING DEPARTMENT USE ONLY		
ROUTED TO:	CONCURRENCE	CONCURRENCE OF GENERAL MANAGER
Engineering	Y <input checked="" type="checkbox"/> N <input type="checkbox"/>	

Staff Report

Origin

The City has received an application (Roland Hoegler – Applicant; Stuart Taylor – Property Owner) for exclusion of 8600 No. 4 Road (AG 06-355496) from the Agricultural Land Reserve (ALR).

This proposal is one of four separate ALR exclusion applications submitted by individual applicants along this portion of No. 4 Road between Francis Road and Westminster Highway. Although similar circumstances and relevant City policies are applicable to all four ALR exclusion applications, they are being brought forward separately for Planning Committee and Council consideration.

A location map and aerial photograph of the subject property under application are contained in **Attachment 1**. A map showing the location of all four application sites in relation to the McLennan Sub Area Plan is contained in **Attachment 2**.

ALR Exclusion Application – Processing and Notification Requirements

Processing

A private property owner (or assigned agent) applying to have property excluded from the ALR submits an application first to the City of Richmond for review by City staff. Once the application has fulfilled submission requirements and addressed City staff comments, the exclusion application is forwarded to Richmond City Council for consideration and decision. In order to proceed to the Agricultural Land Commission (ALC), a resolution from Richmond City Council is required to authorize the subject application to proceed.

If Richmond City Council authorizes the subject ALR exclusion application to proceed, they are forwarded to the ALC for a decision to be made. If Richmond City Council does not authorize the application to proceed, the application does not get forwarded to the ALC and the exclusion application proceeds no further. Should permission not be granted to proceed to the ALC, half of the original application fee is returned to the applicant (\$600 application fee; \$300 returned to applicant if proposal does not proceed to the ALC).

Upon receipt of the ALR exclusion application authorized to proceed to the ALC by Local Government resolution, the ALC may approve or deny the application. If approved, the ALC would notify the proponent and the City of the exclusion. Properties that have been excluded from the ALR are still subject to the City of Richmond's OCP and zoning. Rezoning applications to amend the OCP and zoning would need to be submitted, reviewed and considered for proposals that do not comply with these regulations. The applicant (R. Hoegler) has not submitted a concurrent rezoning application in conjunction with the subject ALR exclusion request.

If the ALR exclusion is denied by the ALC, the application process is complete and notification of the decision is given to the proponents and Richmond for information purposes.

Public Notification Requirements

ALR exclusion applications by property owners are required to notify the public of their application prior to filing it with the Local Government (City of Richmond). Notification involves the following, which is to be completed by owner/applicant:

- ❑ Advertise in a local newspaper identifying the intent, location and applicant of the ALR exclusion application.
 - ❑ Serve a copy and notice of the application to other property owners in the ALR that share a common property with the property under application.
 - ❑ Post a sign on the property that identifies the intent, location and applicant of the proposal with a copy of the notice and application posted on the sign.
-

Any public comments received by the applicant as a result of the notification process must be forwarded or directed to the City of Richmond for consideration in the processing of the exclusion application.

Compliance with Notification and Public Comments

The applicant has adhered to the notification requirements and submitted the appropriate documentation when the application was filed with the City. No correspondence or comments from the public were received directly by the City or forwarded by the applicant.

Agricultural Land Commission Act - Exceptions

Exception Provision

A provision in the ALC Act enables properties that meet certain criteria to be excepted from the provisions of the ALC Act and applicable regulations. The exception provision is as follows (stated in Section 23 of the ALC Act):

“Restrictions to 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.”

In order for a property to adhere to the above provision, the following must be confirmed:

- ❑ On December 21, 1972, the lot was less than 2 acres in area; and
- ❑ On December 21, 1972, the land was on its own, separate certificate of title.

Properties that are excepted from the ALC Act are not required to obtain approval from the ALC for development (residential, commercial, institutional, industrial) or use of properties in the ALR. However, the property is still subject to applicable Local Government regulations and zoning.

Examination to Determine if 8600 No. 4 Road is Excepted from the ALC Act

Based on information forwarded by ALC staff, 8600 No. 4 Road (R. Hoegler – Agent) is confirmed to be excepted from the ALC Act as it adheres to the criteria (less than 2 acres in area on December 21, 1972 and on separate certificate of title).

Implications for Properties that are Excepted from the ALC Act

A property that meets the provisions to be excepted from the ALC Act is still located in the ALR and does not mean that the property is automatically excluded from the ALR. If a property owner wishes to amend the existing boundary of the ALR to exclude their property, an application for ALR exclusion and subsequent authorization to proceed from Richmond City Council and decision from the ALC is required. Any proposal to amend the ALR boundary to exclude a property from the ALR requires an ALR exclusion application despite whether a property is excepted or not excepted from ALC Act.

Benefit of Keeping Properties Excepted from the ALC Act in the ALR

There are many examples of properties in Richmond that are contained in the ALR and are also excepted from the ALC Act. The following are benefits of keeping properties excepted from the ALC Act within the ALR:

- This approach is consistent with the City's Official Community Plan (OCP) designation of "Agriculture" for all properties contained within the ALR. This land use designation identifies agriculture as the principal land use to be considered for ALR lands and supports the ALC's mandate to preserve agricultural land.
- The existing boundary of the ALR along No. 4 Road constitutes a contiguous clearly defined buffer and helps to delineate between urban and rural/agricultural areas. The situation of the ALR boundary coinciding with a public road is a common occurrence in Richmond (i.e., Steveston Highway, No. 2 Road, No. 6 Road, Alderbridge Way, Westminster Highway). Exclusion of properties along ALR boundaries and section line roads compromises the natural buffer provided by the road and can potentially lead to increased development pressure on agricultural land.
- There are likely numerous properties throughout Richmond's agricultural areas that are contained within the ALR, but are excepted from the ALC Act due to property size and historical legal title. From a land use and planning perspective of maintaining areas for agricultural purposes, the approach taken is to designate and include all land in the ALR for agricultural purposes and not individually differentiate properties that are excepted from the ALC Act. This approach is beneficial to agriculture as it would provide a more contiguous and large land base available for farming and not result in further erosion of the ALR boundary.
- Maintaining properties excepted from the ALC Act within the ALR also assists in the potential future consolidation of smaller lots into larger parcels that can be more readily farmed. If individual exclusions are considered, future lot consolidation may be more difficult to achieve.

Findings of Fact

Please refer to **Attachment 3** for additional technical information, surrounding land uses specific to the property under application and a table highlighting the status of the application in regards to information requested by staff.

Related Policies & Studies

Official Community Plan (OCP)

The OCP General Land Use map designates the subject property under application for 'Agriculture'. The McLennan Sub Area plan, approved in 1987, designates the site for 'Agriculture' (refer to **Attachment 2**) and contains specific objectives and policies to enhance agricultural viability in the area east of No. 4 Road, therefore maintaining this portion of the McLennan Sub Area in the ALR. The OCP also identifies policies directed towards protecting all farmland in the ALR and maintaining the integrity of the ALR boundary.

The exclusion of 8600 No. 4 Road from the ALR would not be consistent with the OCP objective of maintaining the existing boundary of the ALR. If the property is excluded from the ALR, the City's existing OCP designation and zoning would still be applicable to the subject property. As a result, the Agricultural land use designation in the OCP and zoning (AG1) would limit urban development to low-intensity residential (single-family) and related accessory uses. More intensive urban residential development would not be in compliance with existing OCP

designations and zoning and would require the appropriate OCP amendments and rezoning applications to be considered by Richmond City Council.

Agricultural Viability Strategy (AVS)

The AVS (approved by Council on May 26, 2003) supports the broader OCP objectives of protecting farmlands in the ALR and enhancing agricultural viability of farmland in Richmond.

As defined in the AVS, the subject property is contained in the McLennan 2 Agricultural Management Node (Six quarter-sections bounded by No. 4 Road, Westminster Highway, No 5 Road and Francis Road). All properties in this node are to be managed in a coordinated and comprehensive manner. Site-specific exclusion requests, considered independent of other properties in this Agricultural Management Node are not supported as a fragmented approach that would not benefit agriculture and jeopardize the established boundary (No. 4 Road) between urban and rural areas. As a result, the ALR exclusion application for 8600 No. 4 Road does not comply with the policies and recommendations contained in the AVS.

Zoning

The subject site is zoned Agricultural District (AG1). A majority of the properties in the McLennan Sub Area in the ALR are zoned AG1. In addition to agriculture and supporting uses, this zoning district permits a single-family residential dwelling and related accessory uses.

Staff Comments

Requested Information

Upon review of the ALR exclusion application, staff communicated to the applicant relevant portions of the City's OCP and AVS in order to identify the principles of Council adopted plans and policies aimed at preserving the existing ALR boundary and enhancing agricultural viability. Staff also identified to the applicant that the proposed exclusion does not comply with the City's OCP and AVS, and the proposal cannot be supported on this basis.

Staff requested that additional information be provided, should the applicant wish to continue to proceed and to enable staff to conduct a complete review. The following comments were forwarded to the applicant in order to obtain a clear rationale for the proposal:

- ❑ The submission of a soils report from the appropriate professional to address the subject property's agricultural capability and potential impact on surrounding properties.
- ❑ The submission of a detailed rationale to justify and explain the purposes of ALR exclusion application.
- ❑ More information to determine how an exclusion application will result in agricultural viability and whether this proposal will ultimately impact farming in the area.
- ❑ Information was also requested on the proposed future land uses should the subject site be removed from the ALR.

Status of the Application and Staff Request for Additional Information

A summary of the status of the application in relation to staff's requests for additional information and clarification to be provided by the proponent is contained in **Attachment 3**.

Approximately two years has passed since City staff requested additional information for the subject ALR exclusion application. In early March 2009, staff communicated the status of the ALR exclusion application and outstanding information that have yet to be received.

Based on the limited information submitted for the ALR exclusion application, staff consider the proposal incomplete, thereby not enabling staff to conduct a full examination and review.

City Services

Existing Services

The subject property is serviced by City storm system with drainage to No. 4 Road. City water is also located along No. 4 Road and services the property under application. The subject property is required to be serviced by an on-site septic sewer disposal system as the area is not contained in an existing City sewer area and not serviced by a City sanitary sewer system.

Servicing Challenges and Implications

There are a number of servicing implications and challenges that would result if the subject ALR exclusion application is approved. Generally, removal of land from the ALR represents the first step in the further development of agricultural land for other purposes such as residential, commercial or industrial development. More intensive, urban oriented-development places increased demands on City water, storm and sanitary sewer services. In general, City services in agricultural areas are not designed for or have the capacity to support increased development.

A particularly challenging City servicing implication for development of agricultural areas relates to sanitary sewer service. The subject properties east of No. 4 Road between Westminster Highway and Francis Road (including the property under application) are not serviced by a City sanitary sewer system and are located outside of a defined City sanitary sewer catchment area.

Richmond City Council adopted a Sanitary Sewer Connection Policy (7401) (**Attachment 4**) on October 24, 2004, which sets out an approach to addressing sanitary sewer connection requests for properties outside of sewer areas. The Policy was developed to take into account infrastructure efficiencies and agricultural land protection policies, which are common issues that arise in many sewer connection requests made to the City. From an infrastructure perspective, existing sewerage areas have an existing limit, which does not generally have the capacity to support additional properties or areas. Based on agricultural land use policies, servicing these properties with a sanitary sewer system is contrary to the protection of farmland as intensive servicing in these areas results in increased pressure to develop farmland for other purposes.

Policy 7401 generally identifies that properties outside of City sewer boundaries be denied connection to the City sanitary sewer system, which provides a consistent and coordinated approach to addressing infrastructure capacity and OCP land use policies aimed at protecting farmland. Any proposal involving a connection to the City's sanitary sewer system for the subject property under ALR exclusion application would not comply with the provisions of Policy 7401.

As a whole, existing services to the subject property under application on No.4 Road as well as other properties contained in the ALR are adequate for the needs of existing residential uses (single-family dwellings) permitted in agriculturally zoned areas. An increase in the development of agricultural land will result in additional pressure on City storm, water and sanitary sewer services that would not likely have sufficient capacity to enable further expansion in the agricultural areas and would also be contrary to City land use policies.

Analysis

The subject ALR exclusion at 8600 No. 4 Road is not consistent with the following OCP objectives and policies:

- Maintain the ALR boundary and protect all farmlands in the ALR.
- Maintain and enhance agricultural viability in the ALR on a city-wide basis and within the McLennan Sub Area.
- Land use designations to identify agriculture as the principal use.

The subject ALR exclusion application does not comply with the City's policies and objectives of preserving the existing ALR boundary as a measure to protect all land in the ALR for farm purposes. Not all land is actively in farm production in the ALR; however, designating land for agricultural purposes ensures that future use of the land for farming remains the top priority.

Commercial agriculture, on large contiguous parcels, is challenging in the McLennan Area given the existing subdivision pattern of agricultural land and resulting lot sizes and configuration. However, the potential for lot consolidation into larger agricultural parcels and for small lot agriculture or farm operations involved in more intensive urban agriculture activities remain a possibility and viable land use that benefit agriculture and comply with City OCP and zoning, as well as ALC regulations. Small lot agriculture utilizing principles of intensive urban agriculture (compact planting arrangements, selecting high-value crops) are viable farm activities that can be achieved on small lots. Removal of the subject sites under application or other properties in the area from the ALR on the basis that they are small in size would jeopardize the ability to undertake or establish small or consolidated lot agricultural activities in the area.

Applications to exclude individual properties from the ALR is the first initial step towards increased undesirable urban development, which would ultimately result in the loss of land available for farming and be contrary to the mandate of the ALC and direction in Richmond's OCP. As well, the impact of additional urban development on agricultural viability would be negative and not support farming.

The subject application does not have adequate information or responded to the staff requests for additional information pertinent to the review and examination of the ALR exclusions.

Should the ALR exclusion application be considered and approved by both Richmond City Council and the ALC, the property would still be subject to Richmond's OCP and zoning. It remains unclear whether the applicant wishes to undertake development if the property is excluded, which would require amendments to the OCP and zoning that currently does not support more intensive urban development.

Financial Impact

If the requested ALR exclusion is denied, 50% of the ALR exclusion application fee will be refunded to the proponent, on the basis that the application does not proceed to the ALC for consideration. The submission fee is \$600 for an exclusion application request. As a result, the proponent would be refunded \$300 dollars.

No portion of the fee would be refunded to the applicant if the application proceeds to the ALC, as the City is required to forward half of the application fee to the ALC (\$300 for each exclusion application).

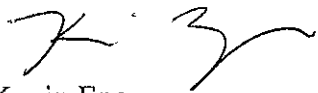
Conclusion

The application to exclude 8600 No. 4 Road from the ALR is not supported as:

- While the existing use on the subject property is single-family, the applicant has not indicated what proposed future use of the property would be.
- The proposed ALR exclusion does not comply with the City's policies on land within the ALR.

- Individual exclusions would result in negative impacts to farming in the area and set a precedent for other property owners to exclude land from the ALR, thus continuing to reduce the land base of the ALR.
- The application is missing key, supportive materials typically requested for staff to conduct a comprehensive review of each proposal.

On this basis, staff recommend that the request by the proponent to proceed to the ALC with an ALR exclusion application at 8600 No. 4 Road be denied.



Kevin Eng
Planner 1



Terry Crowe
Manager, Policy Planning

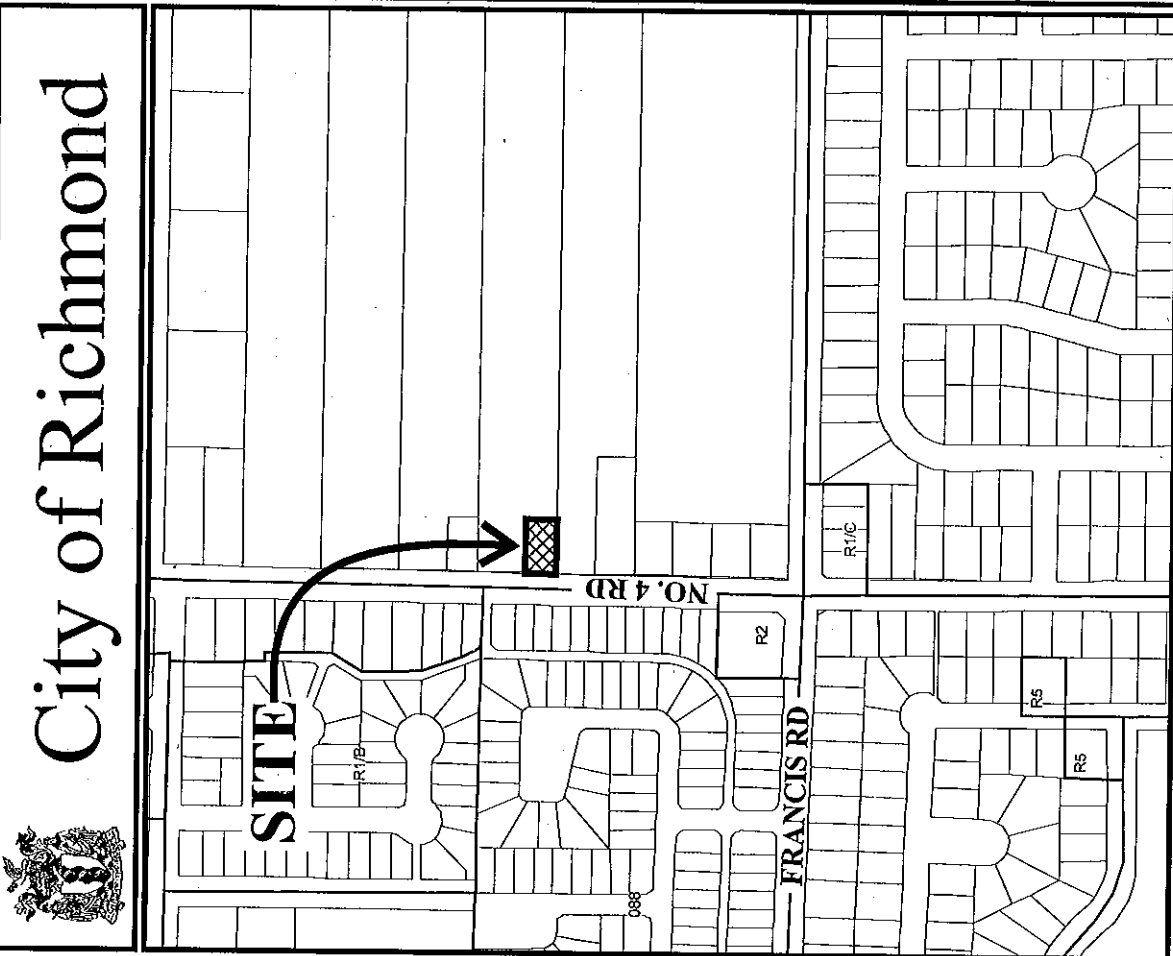
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Attachment 1 – Location Map and Aerial Photo

Attachment 2 – McLennan Sub Area Plan Land Use Map

Attachment 3 – Data on Subject Site, Land Use Context and Application Status Summary Table

Attachment 4 – Sanitary Sewer Connection Policy 7401



City of Richmond



SITE

R1/B

R2

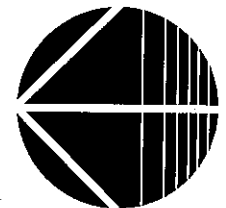
R1/C

R5

R5

NO. 4 RD

FRANCIS RD



AG 06-355496

8580
31.62

36.58

8600
20.12

20.12

36.58

8800
25.98

79.25

Original Date: 01/16/07

Revision Date:

Note: Dimensions are in METRES



**SUBJECT
PROPERTY**

NO. 4 RD

FRANCIS RD



AG 06-355496

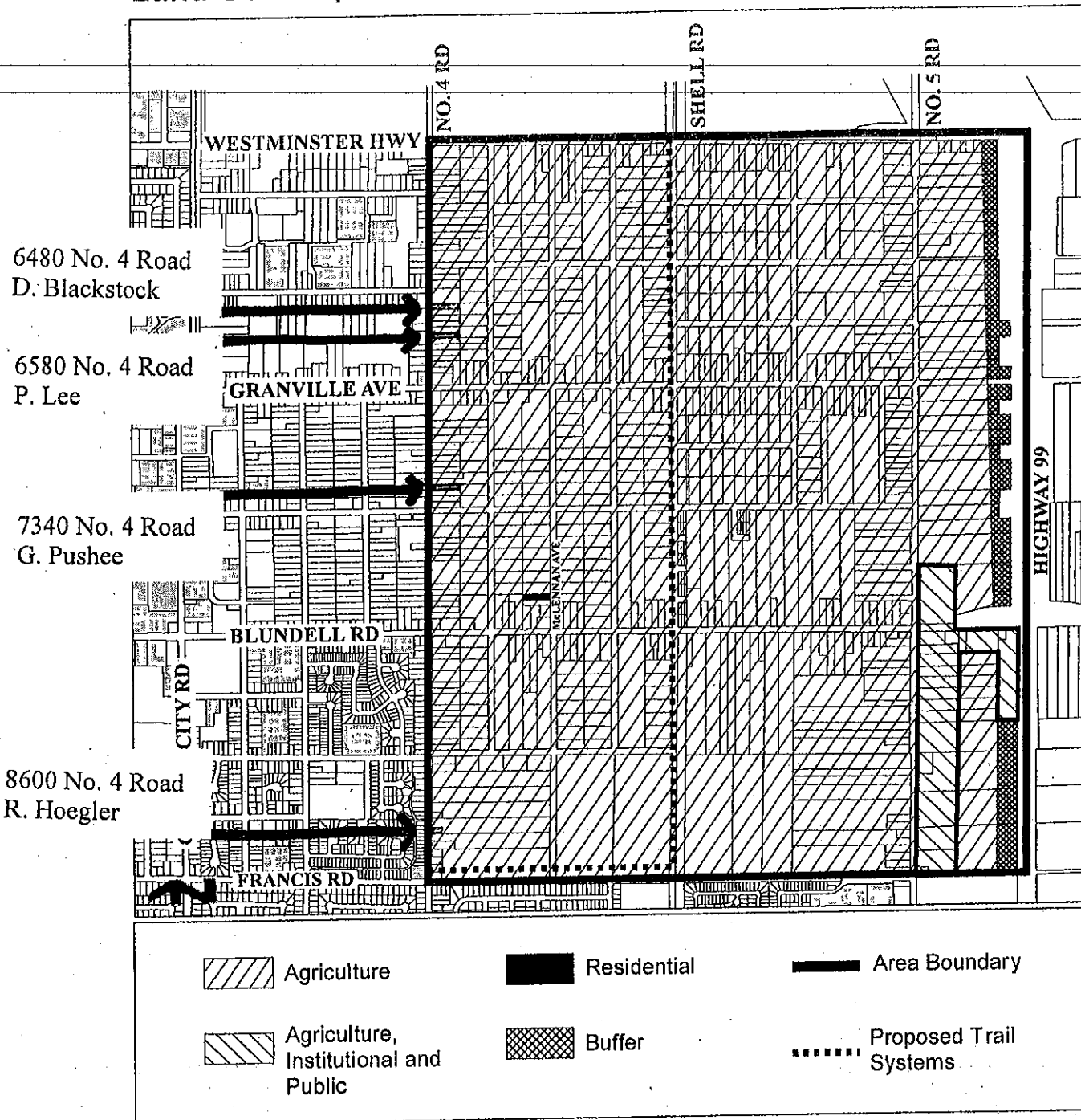
Original Date: 01/16/07

Amended Date:

Note: Dimensions are in METRES

City of Richmond

Land Use Map Bylaw 7536
2003/07/21



Findings of Facts**8600 No. 4 Road (Roland Hoegler agent for Stuart Taylor)**

Item	Existing	Proposed
Owner	Stuart Taylor	N/A
Applicant	Roland Hoegler	N/A
Site Size	723 sq.m (0.18 ac)	No change
Land Uses	Single-family dwelling	Not clearly specified by applicant
OCP Designation	Agriculture	N/A Currently unknown
McLennan Sub-Area Plan Designation	Agriculture	N/A Currently unknown
ALR Designation	Subject site is within the ALR	Exclude property from the ALR
Zoning	Agricultural District (AG1)	N/A Currently unknown

Surrounding Context

To the west: Single-family dwellings on R1/F zoned lots on the west side of No. 4 Road.

To the south: An AG1 zoned property in the ALR with an existing single-family residential dwelling on the front portion and farming (blueberries) on the back portion.

To the east: The back portion of a lot zoned AG1 fronting No. 4 Road, which contains farming activities (blueberries).

To the north: An AG1 zoned property in the ALR with an existing single-family residential dwelling on the front portion and farming (blueberries) on the back portion.

Status Summary Table for ALR Exclusion Application at 8600 No. 4 Road

ALR Exclusion Application	Requests for Information - Applicant Response	Additional Updates
8600 No. 4 Road (Roland Hoegler acting as agent for Stuart Taylor) Submitted Dec. 22/06	Soils Information <input type="checkbox"/> No information provided.	N/A
	More detailed written rationale <input type="checkbox"/> References existing residential land use, property having never been farmed and small parcel size in the original written submission	
	How proposal will benefit farming <input type="checkbox"/> No information provided.	
	Proposed future land use <input type="checkbox"/> No information provided.	



Page 1 of 1

Adopted by Council: October 25, 2004

Policy 7401

File Ref: 6400-00

Sanitary Sewer Connection

Policy 7401:

It is Council Policy that:

1. Properties outside of City sewer boundaries be denied connection to the City sanitary sewer system unless the General Manager, Engineering and Public Works deems there to be a health-related concern and it is not technically feasible to construct an on-site sewer system and the connection would not be contrary to the Official Community Plan.
2. All costs related to connection of a property outside the City sewer boundaries to the City sanitary sewer system are the responsibility of the party requesting the sewer connection, including the costs of investigating and implementing any upgrades to the existing City sanitary sewer system necessitated by the new connection and all associated construction costs.

(Engineering & Public Works Department)

ALR Exclusion Application
8400 No. 4 Road

		INT
✓	DW	DW
	GJ	
	KY	
	DB	
	WB	

CityClerk

From: Roland Hoegler [rahoegler@shaw.ca]
Sent: Wednesday, 27 May 2009 4:02 PM
To: CityClerk
Cc: Weber, David
Subject: ALR applications report to Planning committee May 2009.doc version #2.doc
Attachments: ALR applications report to Planning committee May 2009.doc version #2.doc

4105-04-02

To City Clerk:

Please submit the attached Word document to the June 2 ,
2009 @ Planning Committee.
(We were informed our applications will be on the agenda)

Regards;

Roland Hoegler



May, 2009

Re: June 2, 2009 Planning Committee meeting

4 RD. ALR Exclusion applications

Introduction:

In Sept. 2000, the City of Richmond tabled the following ALR Exclusion application from Richberry farms.

Minutes from the Sept. 2000 Planning Committee Meeting

Mr. Erceg reviewed the report with Committee members. In response to a question from the Chair, he advised that a dwelling could be constructed on each of the 7 subject properties; however, there was some question as to whether this would be possible under Provincial regulations. Mr. Erceg stated that discussion with 2 staff of the Agricultural Land Commission indicated that a dwelling could be placed on each lot

Mr. Kabel Atwall, of 4746 Wyne Crescent, accompanied by Mr. Peter Dhillon, a principal of Richberry Farms Ltd., explained that the property in question had been owned and farmed by the applicant since 1978. He noted that the adjacent property, located adjacent to the applicants cranberry operation, was approved for school use in 1993 and was now occupied by the Choice Learning Centre. Mr. Atwall further advised that subsequent to that, guidelines were put in place by the Provincial Government regarding the aerial spraying of pesticides within 500 metres of the school, which meant that three-quarters of the farm could no longer be aerially sprayed with pesticides and fertilizers. He stated that because of these restrictions, the applicant chose to convert 10 acres of property located north of the school to a golf driving range to act as a buffer between the school and that portion of the farm which was still sprayed from the air. Mr. Atwall noted however that this resulted in the isolation of the 7 subject properties located at the south-east corner of the farm area.

Mr. Atwall advised that the proximity of these 7 properties to the school made it difficult for the applicant to farm the land; as well, it was uneconomical to hand-spray the lots and existing ground and soil conditions restricted the use of heavy farm equipment on the site. He added that greenhouses were not feasible because at least 10 acres of land was required to maintain a viable operation, as well, the use was very labour intensive and incompatible with the farming practices of Richberry Farms.

Mr. Atwall referred to statements made by staff that the properties could be sold individually, and commented that it was unlikely that anyone would want to locate adjacent to a driving range, however, the applicant may be forced to pursue this option if the application is denied. Mr. Atwall then referred to correspondence (dated September 6th, 2000 to the Manager, Development Applications) which outlined possible uses which could be envisaged for the properties. A copy of this correspondence is attached as Schedule A and forms part of these minutes. He added that the applicants would also consider the properties as the site for a possible fire hall, if that was the wish of the City. Mr. Atwall concluded his presentation by stating that the applicant was of the belief that there would not be a measurable impact on the area if the exclusion was permitted, and he asked that the application be forwarded to the Agricultural Land Commission with the support of Council.

The Chair referred to a staff report (dated June 28th, 1994) which dealt with an application from Richberry Farms for non-farm use to develop a golf driving range, copies of which were provided to all members of the Committee.

Discussion then ensued among Committee members, the delegation and staff on this matter, during which the following information was provided:

----at one time, blueberries were grown on the subject properties, however, because of the location of the school immediately to the west, and the wet ground conditions, it was not longer possible to undertake aerial spraying of the lots in question

----a minimum of 10 acres was required in order to operate a viable greenhouse operation; such an operation would be very labour-intensive

---- spraying of the properties, either by air or by hand, would cause problems because of the close proximity of the school; this was why regulations were put into effect.

--- the uses described in the correspondence (Schedule A) were taken from the Zoning & Development Bylaw; the applicant was considering a more public use however the use would not be for a school.

At the request of the Chair, the General Manager, Urban Development, David McLellan provided information on the history of the establishment of the Choice Learning Centre at its present location.

(Councillor Steves entered the meeting at 5:02 p.m.)

Discussion continued with the delegation and staff on the problems being experienced by the applicant, and on the concerns of the Committee of the impact of allowing the properties to be excluded from the Agricultural Land Reserve. In response to the concerns expressed, Mr. Atwall advised that the applicant was not interested in developing the properties for residential uses and wished to discuss with the City and Council, appropriate uses for these lots. He added that if the Committee was concerned that the school could acquire the westerly most property to expand its facilities, the applicant may consider removing that property from the application for exclusion.

Councillor Steves referred to the June, 1994 staff report and stated that at that time, the representative of Richberry Farms had indicated that these 7 properties would continue to be farmed; that the area could be hand-sprayed, and that homes would not be constructed. In response, Mr. Atwall advised that the liability and safety issues related to the spraying of pesticides and fertilizers adjacent to the school was a major concern of the applicant. Reference was made to the possibility of ground spraying, and again safety issues were cited and information was provided on the complaints received from the parents of students at the school each time the applicant sprayed the property with pesticides or fertilizers. Discussion ensued between Councillor Steves and the delegation on this issue.

Questions were raised about the feasibility of converting the golf driving range to farmland, and advice was given that while this was possible, Richberry Farms would then lose its buffer for the spray area. In response to further comments, Mr. Atwall commented that the purpose of the driving range was to provide a buffer from the school for aerial spraying and that it would not be economically viable to spray the larger area (if the driving range was converted), by hand.

Discussion continued on whether there were any options available which would allow the continuation of farming on the subject properties, and questions were raised about whether the City's Agricultural Viability Study which was presently underway, would provide answers on how both uses could be accommodated. Reference was made to the approval of the golf driving range 5 years ago and questions were raised about why the issues now being addressed were not considered at that time. In reply, Mr. Atwall advised that the focus at that time was to create a buffer area between the school and the farm, and the only way to do that was to establish a golf driving range. The Chair questioned whether staff had had any comments at the time, and Mr. McLellan responded that the focus was on the immediate problem of the school being located adjacent to the farm, and that not a great deal of thought was given to the subject site.-

It was moved and seconded

That authorization for Richberry Farms Ltd. to apply to the Land Reserve Commission for the exclusion of 20471, 20491, 20511, 20531, 20551, 20571 And 20591 Westminster Highway, be approved.

Prior to the question being called, Committee members spoke at length on the issue of approving the application for exclusion, during which they indicated that under normal circumstances the application would not be approved. However, because of the situation which the applicant had been placed in by the Provincial Government with regard to aerial spraying regulations adjacent to the Choice Learning Centre, there was consensus amongst Cllrs. Greenhill, McNulty and Barnes that the application should be forwarded to the Agricultural Land Commission for approval.

Councillors Steves and Barnes voiced their opposition to the application for exclusion being submitted to the Agricultural Land Commission for approval because of the belief that the subject properties could still be farmed.

Concern was also expressed that if the land was developed for industrial use, the land could never again be returned to its agricultural state. The comment was made that further investigation could result in the applicant finding another way of using the property which was not irreversible.

The question on the motion was then called, and it was **CARRIED**

OPPOSED:
Cllr. Barnes
Steves

Planning committee then referred this matter to the Sept. 25, 200 Council Meeting

REGULAR COUNCIL MEETING

Monday, September 25th, 2000

Time: 7:00 p. m.

Place: Council Chambers

Richmond City Hall

Present: Mayor Greg Halsey-Brandt
Councillor Linda Barnes
Councillor Malcolm Brodie
Councillor Lyn Greenhill
Councillor Kiichi Kumagai
Councillor Ken Johnston
Councillor Bill McNulty
Councillor Harold Steves

City Clerk - J. Richard McKenna

Absent: Councillor Derek Dang

NOTE:

Re: Richberry farms application, to allow the exclusion of 7 (.87) acre parcels, (4) members of our current 2009 , City council approved the ALR exclusion

application for Richberry Farms , and was passed by a 6 -2 vote (with one council member absent).

(4) Members of the current Richmond council(2009) listed below voted to approve the Richberry Farm application being sent to the ALC

- Greg Halsey-Brandt
- Malcolm Brodie
- Ken Johnston
- Bill McNulty

Discussion:

The basic question is, does the City actually encourage agriculture in a practical and rational sense within the ALR, or does it turn the proverbial “ploughshare” into a sword and use the ALR designation as a weapon against a minority of its very own citizens ?

As noted above, in Sept. 2000, Council approved the ALR exclusion of (7) bare undeveloped . 87 acre parcels at Richberry farms.

None of these parcels had any structures ie homes etc. and yet it is duly noted most had actually been actively farmed in the past .

These same 7 parcels were surrounded by large active commercial farms immediately adjacent ie

Richberry Farms and B & K Farms.

In addition, the (7) . 87 acre Richberry Farm parcels were located on a rural 2- lane side road , (old Westminster Highway) and not a major hi- traffic arterial road such as # 4RD.

This year, in 2009, Council approved another ALR application for (7) adjacent .87 acre Richberry farm ALR parcels immediately north of those that were ultimately excluded from the ALR in 2000.

While the application was for non- farm use, (and not an ALR exclusion application), Council, by an 8-1 vote, supported the proposal to build a new cranberry processing plant , in essence, an industrial use , which , if approved by the ALC, for all intents and purposes forever removes any future actual agricultural production on these same lands, given the new facility and its parking requirements will require removal and/or paving over of soil .

In addition, Council, in both 2005 and 2008, approved (2) ALR exclusion applications for 136 acre Garden City Lands, located at 5555 Number 4 Road.

Thus, in 2000, 2005, 2008 and 2009 we have had Council approving ALR exclusion applications for parcels much L-A-R-G-E-R than the current Number 4 Road applicants.

THUS: These qualify as precedents within the Richmond ALR

Number 4 Road applicants :

--- #4RD. ALR area , between Westminster Highway and Francis , is comprised of 93 properties totalling approx. 75 acres.

--- 87 of these properties are less than 1 acre, in fact over 60 % are less than ½ acre.

--- Each applicant is an owner of a less than ½ acre parcel and containing a Single Family dwelling.

FYI: With Richmond's ALR , no other such anomaly exists, ie such a high density of small residential ALR properties and immediately adjacent to high density multi family development immediately west of #4RD..

City RAVS (2003)

1. Land Use - "Agriculture" (City of Richmond)

The Richmond Zoning Bylaw defines "Agriculture" as:
" the use of land for the growing of crops or the raising of livestock."
(Classic definition)

Properties that are zoned "Agricultural District (AG1)" are permitted to have the following uses:

- Agriculture**
- Keeping & Raising of Animals for Commercial Purposes**
- Horticulture**
- Peat Extraction & Processing**
- Horse Riding Academy**
- Roadside Stand (Classes A & B), provided that the operation is clearly ancillary to a permitted agricultural use**
- Animal Hospital or Clinic**
- Residential, limited to One-Family Dwelling**
- Boarding and Lodging, limited to two persons per dwelling unit**
- Home Occupation**
- Radio & Television Transmission Facilities**
- Public Sewage Collection, Treatment and Disposal Facilities**
- Accessory Uses, Buildings and Structures, but excluding secondary suites.**

NOTE: Given City own Surficial Geology Maps clearly indicate our soils types as "peat" extraction and processing of peat is an allowable use.

(discussed further under “soils” discussion.)

Also From City RAVS 2003

3.5.2 Buffers

A common tool for agricultural edge planning is the buffer. Buffering is currently required by the City for new developments adjacent to the ALR. A buffer is defined as an area of land separating adjacent land uses and managed for the purpose of mitigating specific impacts of one use (e.g. noise, theft, spraying, trespassing, dust) on another use. The land separating the adjacent land uses may be left empty, or in many cases may include buffer elements such as:

- Fences;
- Vegetative or landscaped buffers (trees, hedging, etc.).

While buffers can work well in areas where a new development is being considered, a buffer may not always be a practical solution. Often the only land available for a buffer is on the agricultural side. Historically, limited consideration has been given to where a buffer should be located or who should fund it. Farmers, subjected to negative reactions to their farm practices from urban residents, have often taken the initiative to install buffers.

Note: Re Buffers:

Various policies re the ALR state that developments adjacent to the ALR and separated by a road require a dedicated **16 + foot vegetated strip** on the development side. We see no evidence of such compliance as new hi density developments are built on the West side of #4RD.

Staff makes errors when referring to #4 Rd as a Buffer.

A road can NOT be a buffer.

A road can and will make the situation worse for a given neighbourhood , not better nor even neutralize any impacts.

To the contrary, Roads attract traffic and the greater the density as development grows , #4RD has a negative UNbuffered impact on the East (ALR) Side of #4RD. given the traffic resulting from increased density .

Again, The City is not consistent with its policy re: ALR lands especially with “buffer” policy.

Example of City owned buffer :

It is duly noted that the City owns a large parcel of land full of tall vegetation that is located on the West side of Oliver Street in East Richmond’s Hamilton area that separates the residential areas from the cranberry operations.

This area is identified on City maps as a “ buffer” .

Nothing comparable exists on #4RD. to buffer the ALR (east) side of #4RD from the development on the west side of #4RD.

From City RAVS (2003)

3. Taxation - "Agriculture"

The B.C. Assessment Authority considers as "farm" class all or part of a parcel of land used for:

- primary agricultural production
- a farmer's dwelling, or
- the training and boarding of horses when operated in conjunction with horse rearing.

In order to maintain the "farm" class, the farm must meet the following income criteria:

- if land is smaller than 8,000 m² (2 acres), must earn \$10,000 from the sale of primary agricultural products.
- if land is between 8,000 m² (2 acres) and 4 ha (10 acres), \$2,500 must be earned.
- if land is larger than 4 ha (10 acres), \$2,500 plus 5% of the actual value of any farm land in excess of 4 ha (10 acres) must be earned from farming activity on the land.

NOTE:

--- In discussions with **BC Assessment Officials** that adjudicate farm status, they have informed me that there is not one single parcel in Richmond of ½ acre or less on size that has been granted farm status., hence they pay full city (urban) property taxes with no exemptions

--- In addition, BC Assessment have informed me that they would NOT give farm status to a parcel such as our small, less than ½ acre Number 4 Road properties due to the fact they are predominantly in residential use, and that they would perceive any residential parcel on a half acre as ineligible for farm status. BC Assessment will assess a property at its highest and best use, unless it qualifies for some other exemption. If BC assessment will not or cannot grant us farm status, it is inherently implying we are not and cannot be a farm., hence what rationale even remotely exists for agricultural zoning?. Thus BC Assessment may be a far more objective judge of our agricultural potential than the City Staff.

--- City documents have estimated that, on average, the value of farm production in Richmond is approx. \$ 18, 000 per hectare.
This extrapolates down to 19 cents per square foot.
On a bare full ½ acre, ie 21,000 sq. ft. this would amount to approx . \$4356 .
Farm Tax status would require \$10,000 of farm income on such a small bare parcel.

HOWEVER: On a ½ acre parcel with a residence and given City bylaws on ALR/AG-1 allow for 60 % site coverage on our approx, 19,000 sq, ft lots, this would leave at best 8000 sq. ft to "farm" .

This calculates to approx. \$1600 of production on a ½ acre residential lot, and thus it is impossible to achieve farm status, given the rules state \$10,000 must be produced on properties of our size (ie less than ½ acre) and even moreso if they have residences. Again, BC Assessment would not grant us farm status based on this basic fact.

QUESTION:

What benefit is it to remain in the ALR if one cannot even possibly achieve farm status, which is, in essence, the only advantage ALR status holds?

We are caught in a Catch 22 of conflicting rules and regulations that not only discourage agriculture, some in fact will not permit some types of agriculture.

Backlands (properties immediately behind #4RD properties):

It is noted, and evident in the RAVS map, that many of the properties that back onto the Number 4 Road properties are deemed Environmentally Sensitive Areas (ESA) and thus not being farmed. If they are ESA and not farmed, there is no impact on agriculture as there is no agriculture, and the city's own ESA policy on ALR lands deemed ESA conflicts with the intent of the ALR.

Also, duly note behind most #4 RD. properties is a backland parcel (.87 acres on average) immediately East, which themselves back onto a road allowance named Johnson Road. Or, these backland parcels are sandwiched between our #4RD properties and Johnson Road allowance.

Johnson Road is overgrown with trees and other vegetation and not farmed nor open to traffic.

Thus in essence, most backland properties are not farmed, and hence, effectively act as a major buffer, and back onto Johnston Road, which also acts as a buffer. Thus, behind most #4 Rd properties are two buffers ie (i) an unfarmed backlands parcel acting as a buffer and (ii) an inaccessible Johnson road dedication acting as a buffer.

The property behind Mr. Philip Lee is a small .87 acre surrounded by (2) ESA parcels. This parcel, while it produces blueberries, is too small to qualify for farm status by itself, but upon discussion with BC Assessment, it achieves farm status via what is called being part of a "farm unit" whereby its production is grouped together with other parcels to achieve the benchmark to become eligible. In doing so, this parcel only pays approx. \$50 in annual property taxes. The other backlands parcels of equal size that are not farmed pay approx \$1000 in property taxes annually.

Thus, there is a night and day difference between #4 RD ALR properties and those immediately behind us, most of which cannot facilitate a dwelling yet are also not being farmed.

Those few with small backland properties that do farm obviously take advantage of the farm status, and via such property tax exemptions, the tax burden is shifted onto borne by the rest of the taxpayers, including those of us on Number 4 Road yet kept in the ALR.

In essence, the status quo is that the few backland property owners immediately east of Number 4 Road property owners that farm do so in order to save approx. \$950 per acre in taxes, paying \$50 instead of \$1000. However, the majority do not farm, are not eligible for farm status, and pay the full property tax rates.

Thus, within Richmond's ALR, is this the role of #4 Rd property owners to protect those exploiting taxation loopholes and not actual framers, or that our inclusion in the ALR will affect the uses of backlands parcels most of which are not even being farmed?

Thus, is there any evidence the City can provide that our #4RD ALR inclusion is encouraging agriculture on our properties or adjoining ones? I see none whatsoever that it does.

In the case of Mr Lee's property, he happens to back onto a .87 acre parcel where the owner goes through a token exercise to save \$950 in property taxes and pay only \$50? Is it Mr Lee's role to assist in that endeavour.

These are the basic realities of #4RD property owners ALR inclusion.

Is that fair?

City Bylaws:

1. Land Use - "Agriculture" (City of Richmond)

The Richmond Zoning Bylaw defines "Agriculture" as "the use of land for the growing of crops or the raising of livestock."

Properties that are zoned "Agricultural District (AG1)" are permitted to have the following uses:

- Agriculture
- Keeping & Raising of Animals for Commercial Purposes
- Horticulture
- Peat Extraction & Processing**
- Horse Riding Academy
- Roadside Stand (Classes A & B), provided that the operation is clearly ancillary to a permitted agricultural use
- Animal Hospital or Clinic
- Residential, limited to One-Family Dwelling
- Boarding and Lodging, limited to two persons per dwelling unit
- Home Occupation
- Radio & Television Transmission Facilities
- Public Sewage Collection, Treatment and Disposal Facilities
- Accessory Uses, Buildings and Structures, but excluding secondary suites.

NOTE:

Re Soil Report:

City's own soil maps clearly identify our Number 4 Road soils as lowland peat, up to 8 metres thick.

Under the ALC Act we ALR property owners have every right to extract and process peat soils, especially such small properties.

Hence, in theory, the peat soil, and especially on such small parcels, could be removed and replaced with clean fill material for a number of reasons and scenarios.

Over time, much of these properties have had much of the soil excavated and removed in the building process, paved over, etc. and different varieties of fill material brought in.

Re SOIL reports (From the ALC act Section 49)

Inspections

49 (1) For the purposes of administering this Act or of ensuring compliance with this Act, the regulations or an order of the commission, a member of the commission or an official may do one or more of the following:

(a) enter any land, other than a dwelling house;

(b) make any surveys, analyses, inspections, examinations or soil tests that are necessary to determine any of the following:

(i) the current use of the land;

(ii) the suitability of the land for farm use;

(iii) the potential impact of proposed changes to the use of the land on land in an agricultural land reserve;

(c) remove soil samples for the purposes of conducting the analyses and tests referred to in paragraph (b);

Staff have requested soil samples, but despite repeated requests by the #4RD applicants the Staff have not informed us what purposes this serves. We have had estimates ranging from \$3000 and up from the appropriate professionals for soil reports for one applicant .

Again , City's own maps indicate the original soil as "peat".

We have indicated to Staff what the City's own maps clearly state, ie (peat), but have stated that what if the soil is the best in the world ? What is the argument or concern? Our properties are too small to farm .

Again, no response from Staff.

ALC's own agrologist

I have also had discussion with the ALC's own soil expert, Mr Trevor Murrie. Section 49 of the ALC Act , in essence allows the ALC to remove and analyze soil samples IF it, the ALC, so chooses. Mr. Murrie did such an soil analysis for the Garden City Lands upon request from the ALC and submitted his findings.

Mr. Murrie also stated to me the scope of his work is throughout BC, and he advises the ALC if some applications were really worth the resources that would be required for soil reports. Given that many, if not most of ALR decisions focus on quality of soil and on larger greater than 2 acre ALR parcels , we submit that the ALC , as the final arbitrator of these applications , if it felt that a soil analysis was necessary on our small ½ acre residential properties , would request Mr Murrie perform one . Based on my discussion with Mr. Murrie, I felt confident that a soil report on any #4RD applicant property would be deemed as unnecessary, given the original soil is no longer undisturbed , no longer virgin soil, but has been compromised and impacted in many ways via residential development, but again, with all due respect we feel it is an unnecessary and exhorbitant cost for such small parcels , and none of the application forms we submitted requested them.

Or, with all due respect, why should thousands of dollars in cost be incurred by the applicants for a soil report when the ALC is fully prepared to do so at its discretion and incur the cost ?

Bylaw 5300

DIVISION 600: SUBDIVISION OF LAND

603 AREAS ZONED AG1, AG2

The creation by subdivision of a parcel of less than 2 ha (4.942 ac.) in area shall not be permitted.

NOTE:

Clearly, the City presently feels that, in this modern day , since the ALR was created, a minimum agriculturally viable parcel is approx. 5 acres.

This implies that our less than ½ acres #4RD parcels are not agriculturally viable given their creation is no longer permitted. Our approx. ½ acre parcels are 1/10 the size of the

minimum subdividable size of 4.92 acres. That is another logical argument for exclusion via a de-facto definition of what is and isn't agriculturally viable via size of the given parcel .

**City of Richmond Animal Control Regulation
(Bylaw 7932)**

Part 5 : Domestic farm animals

**5.2.2 A person may not keep a domestic farm animal on a parcel:
(a) on a parcel with an area less than 2000 sq. meters (21, 529 sq. ft.)**

Note: The ALR is intended primarily for the pursuit of agriculture. Given we, the applicants , are approx. 19,000 sq.ft. in size, hence less than 21, 529, Bylaw 7932 states we are not permitted the raising of any farm animal . This is in conflict with the classic definition of agriculture, which is even noted in the RAVS. In The Richmond Zoning Bylaw defines “ **Agriculture** ” as: “ *the use of land for the growing of crops or the raising of livestock.* ”

The only possible way to achieve any reasonable farm income to achieve farm status may be via raising of farm animals, but City Bylaws forbids them, reducing our options As well as neighbours may complain re: smells and noises etc..associated with such an endeavour. Such neighbours would be in close proximity , given the properties would be of a width 63 ft apart on average lot width (ie 63 ft is Average width of #4RD ALR properties).

Further re:Buffers

In addition, and with respect to” buffers”....a party that chooses to farm a ½ acre residential parcel may run into problems re buffer requirements. My understanding of the buffer requirements would be approx. 45 ft of buffer if the parcel is adjacent to the ALR (ie not separated by a road), which it appears has to be provided by the non farmer .

OR..I highly doubt that a neighbour would incur the cost to create a buffer on THIER property to allow someone to farm in what is simply a residential neighbourhood, nor would the party who tries to farm a ½ acre parcel attempt to build a buffer on their own property, as this would surely use up any available land and leave none for farming. Simply Pretzel logic.

CONCLUSION...

Again, This is simply illogical and impractical to farm given these additional “buffer”requirements exist.

Re: Sewers:

Two Number 4 Road ALR properties are currently hooked up to sanitary sewers...

---the **DND Armouries** on a 136 acre site, and

--- **the Rotary Hospice** .

A Sanitary Sewer Force Main runs down Number 4 Road and has been in place since mid - 1980's.

---there are a number of Richmond ALR properties which have been allowed to be connected to the City sanitary sewer system .

CONCLUSION

The City has no consistent policy re the Richmond ALR and sewers in the ALR .

If it is not consistent, it is open to possible allegations of discrimination etc.

RE: 136 acre Garden City Lands (@ 5555 #4RD)

Argument : Surrounded on 3 sides by development

In the many meetings and hearings re: the GCL , many Council members are on record as stating, while weighing the GCL's current ALR status versus its potential as future farmland, was that their rationale for approving the exclusion application was based on the fact the 136 acre GCL has never been farmed., impractical to farm,and that it was surrounded on 3 sides by re-development via urban encroachment . With all due respect, that same rationale not only applies to the #4RD applicants , the #4RD applicants exceed the 3 sided benchmark for the GCL. Each applicant, and in fact almost every #4RD property, has high density development directly across the street, and (2) neighbouring residences on each side, many within approx. 10 ft. of each other . The 136 acre GCL land were effectively bare land , while # 4RD. applicants have had their sites future agricultural viability compromised for years via NON- agricultural development.

Additional note:

Richberry farms exclusion:

Much of the pro exclusion argument revolved around the applicants proximity to a nearby school

Please note Mr Lee's property @ 6580 #4RD is directly across from McNeill High school, which has a much larger student population than the private school near the Richberry farm parcels which were excluded.

HISTORY of Number 4 Road :

Section 23 of the ALC Act:

Properties of less than 2 acres are exempt from the restrictions of the ALC Act

Exceptions

23 (1) 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.

(2) The restrictions on the use of agricultural land do not apply to land lawfully used for a non-farm use, established and carried on continuously for at least 6 months immediately before December 21, 1972, unless and until

(a) the use is changed, other than to farm use, without the permission of the commission,

(b) an enactment made after December 21, 1972, prohibits the use, or

(c) permission for the use granted under an enactment is withdrawn or expires.

(3) For greater certainty, the exception in subsection (2) applies only to the land that was actually being used for a non-farm use and not to the entire parcel on which that use was being carried on.

Discussion:

Section 23 of the ALC Act has many interpretations

In a discussion with other Local Gov't with ALR lands , many indicated few if any properties of sizes less than 2 acres.

I would submit that Section 23 is not definitive of future agriculture for properties less than 2 acres , it is in fact admitting that such small parcels are not viable for agriculture . Duly note that Section 23 does not take into account soil types , wether they be good or poor soil .

It is far more logical to presume that Section 23 of the ALC Act was created to allow for such ease or convenience of inclusion so as to allow roads to become quick, convenient and easy ALR boundaries, given time was of the essence for the ALR's creation. So, in essence, the authors of the ALR realized parcels less than 2 acres can't be farmed in a practical sense, regardless of the soil, yet at the same time allowed them to be included in the ALR. Again an arbitrary, and somewhat discriminatory decision and most certainly not definitive re: agricultural capability of less than 2 acre parcels in the past present of future..

CONCLUSION: Illogical, impractical , simply expeditious inclusion for political convenience to hasten the ALR's creation .

RE: #4RD.

When the ALR was created, many of the #4RD properties were actually .87 acres ie twice the size they are now. ie 126 ft x 303 ft.

However, since the ALR was created, many of these same # 4RD properties were subdivided into (2) .43 acre parcels each 63 ft. X 303 ft.

Example:

Mr. Lee's lot at 6580 # 4RD. and mine at 6560 #4RD were once one single .87 acre parcel and subdivided into two (.43 acre) lots in the 1980's .

ALSO: "Exceptions":

The City allowed two faith groups in the mid - 1980's to build on Number 4 Road in the ALR, which forced the City to change the "AG" zoning to "ASY", yet are still in the ALR.

Why?

The City also has 2 properties zoned "Commercial" on # 4RD yet in the ALR.

Why ?

At the time, # 4RD. was effectively an arbitrary inclusion of a strip of small properties in residential use. Non- residential uses such as places of worship are not permitted under AG -Zoning nor under the ALC Act. However, the Section 23 provision of the ALC Act allowed these applicants to bypass the ALC and deal directly with the City . **In essence, Section 23 defers 100% of the control of ALR parcels less than 2 acres in size to the City**

CONCLUSION :

The ALR is a double edged sword...it is clear that it artificially and indiscriminately suppresses land values given its restricted land uses. However, It appears that the City allows some groups to acquire ALR to access cheap ALR land (synonymous with ALR designation) and allow re-zoning(ie to ASY)to facilitate some groups needs, yet others ie those that currently own lands do not benefit but are penalized by an artificial depreciation of property values via the ALR inclusion .

This is Inconsistent and possibly discriminatory .

In essence, since the ALR's creation, the City has interpreted Section 23 of the ALC Act with the ALC unhindered blessing and actually densified and further urbanized the ALR side of #4 RD. It appears that in the past the City was far more interested in the urban development of these #4 Rd. ALR lands (by subdividing .87 ace parcels into (2) .43 acre parcels and collecting the DCC fees that the new lots provided.

What about those of US currently on # 4 RD. ?

Was it the intent of the City to create a quasi- Potemkin village to hide the fact that much of the backlands parcels are not farmed and that, even moreso, much of the East McLennan area is not farmed ?

Many people , when informed, are surprised that we on #4 Rd. are in the ALR.

Since the ALR's creation, the City has grown in both size and density.

When the ALR was created, Number 4 Road was a two lane road with an open ditch . It has now turned into a literal 4 lane highway.

The properties West of Number 4 Road , of similar size and soil, have been given a new OCP which effectively creates the highest - density in Richmond. City's own planning documents discuss density at minimum 10 fold, ie a 1/2 acre lot on the West side of #4RD can densify to a minimum of 10 x's .

This has serious impacts on our ALR side of Number 4 Road arbitrarily deemed ALR .

As I stated in a presentation earlier this year, Number 4 Road was used as a convenient boundary back in 1972.

That was simply arbitrary decision , not definitive .

ie Number 4 Road properties were URBAN sized parcels, much of the City center was comprised of 1/2 acre to one acre parcels.

Or, as I stated in my submission on this matter earlier this year, you can call a Mouse a "Cow" but it is still a Mouse. Desiganting it as ALR or AG in no way implies it is remotely practical to farm . If it is not practical nor feasible for a small parcel to be farmed , it will never be farmed. Why try to hide this basic fact?

The only constant is change, or conversely change is the only constant .

We on Number 4 Road are impacted by change and increasingly so.

We feel that the City must acknowledge this reality and work with us to create fairness and balance.

(From City 2003 RAVS)

3.4 Non-Farm Uses and Parks and Recreation Strategy

3.4.1 Introduction

Despite land being within the ALR, farming may not occur on it. However, farming is the priority use for ALR land and all non-farm uses must be carefully reviewed and considered for their impacts

on agriculture and their ability to contribute net benefits to enhance agriculture.

It is important that the entire community understand that the agricultural area is a "working farm" landscape.

In Richmond, nearly 40% of the land in the ALR is not used for farming purposes.¹³

Given that the City's own documents state that 40% of the ALR is not farmed.

It serves no purpose to continue to maintain our small #4 RD. properties in the ALR .

Re Staff comments about potential “consolidation” of small ALR parcels

I have stated in front of council on at least two occasions that pure and simple, this will not happen. If one samples the assessments of ALR properties, and calculates \$/per sq. ft calculations it becomes clear that the basic formula is “the larger the ALR parcel the lower the \$ per sq. ft value”.

Examples:

Garden City Lands : 136 acres @ \$10 million, value of approx **\$1.80 sq. ft**

Average backlands parcel (.87 acres) assessment \$247,000, value of aprox. **\$6.50 sq. ft.**

Clearly, consolidation is a non - starter.

Consolidation will devalue the given ALR property. Owners are not that foolish

In fact the only consolidation of record on #4 RD were the (2) faith groups, who each consolidated 2 parcels to create one and built churches on them and paved the majority of the remaining land. Thus, why are these include within the ALR?

For all intents and purposes, any agricultural potential is forever lost.

In essence, our #4RD. properties are tainted inventory, that could never be remediated back to land that can sustain viable agriculture. To do so, they would have to buy what are in essence residential properties at market value and then commence soil remediation and assure the appropriate agencies that the soil in place is safe to grow food on.

Even more indicting is the fact that the RAVS states that many of the bare, readily available ALR lands requiring no remediation are NOT being farmed.

Thus, how can an argument be made that our small residential properties can ever facilitate agriculture? We would be the absolute last properties to ever be considered for agriculture.

Is the City claiming we are ALR in the true spirit of the ALR and continuing to do so, is, in essence

(i) deceiving the general public re: the truly amount of viable quality farmland actually available and ?

(ii) effectively using or hiding behind the irrational ALR designation for our # 4 RD. properties to actively discriminate against us and create a number of inequities, all other things being equal.?

In essence, E-V-E-R-Y-O-N-E loses, because resources are not being directed to support what is or can be viable agricultural lands, but instead used to create a lowest possible denominator with vague unsubstantiated bureaucratic presumptions of a given parcels long term agri-viability based simply on the given properties semantic designation of “agriculture.” ..

THUS:.....If we small properties on #4RD are being treated the same as a truly viable farm, farming will lose out, given the City’s action or inactions revolve only on

semantics and designations. It is time to separate the wheat from the chaff, in fact long overdue.

I will also remind Council that ALC Chair, Erik Karlsen, in an article in the Richmond News dated Oct. 2, 2007, re a #4RD ALR properties, stated (quote) **"It is the City of Richmond, not the ALC, that is using the ALR designation to enforce land use restrictions, like the withholding of the city sewer services"**.

Recently, the Gilmore Farm was sold.

Well known Richmond farmer Mr. Bill Zylmans stated in our local paper that he leased these lands, but effectively said that he could not afford to buy them at the selling price of approx. \$100,000 acre in what he called marginal land. Suffice it to say, clearly no one could afford to buy our #4RD residential properties and convert and remediate them to farmland. It should also be noted that Mr. Zylmans also supported the GCL exclusion.

Would it not be reasonable to presume that, re: the entire GCL ALR exclusion application, we can simply replace the address and legal description of the GCL at 5555 #4 RD. with that of any #4 RD applicant ?

Would not the very same rationale for exclusion apply ?

Again, the GCL was one single 136 acre parcel

FYI: The entire #4RD ALR strip between Westminster Highway and Francis is 93 properties totalling 75 acres.

In essence, is that what this has boiled down to, ie that the City does not really support the intent of the ALR, but that it abuses and hides behind the intent of the ALR ? Is that a fair statement, or what evidence to the contrary does the City have to debate this conclusion ?

How can the City defend itself against this allegation if the status-quo of claiming small #4RD residential properties arbitrarily included in the ALR having any agricultural potential is continually maintained ?

I may also suggest that if the City denies these #4RD applications, this may compromise and handcuff the City in the future for any future ALR applications, given some of the inconsistencies already previously outlined in detail.

Since the City of Richmond was founded, and, ironically since the ALR was created, it is 100% and unambiguously clear that the City never had any intentions that #4RD properties had any long term agriculture viability, if any. Several decades ago, #4RD was clearly planned as a residential neighbourhood much like those found on Ash, Heather, Bridge, Alberta, Ferndale, Garden City, Bennett, Jones, General Currie, Minoru, Ackroyd, Arcadia #3 RD. etc. etc. all of which have evolved from large single family lots to higher-density.

A serious serious imbalance exists here.

It appears to us the City is turning a blind eye to us on #4RD.

How can the City ignore simple logic that we have never been farms, cannot ever be viable farms , yet will be impacted more and more as the City continues to grow ?

Yes, this may be a tough decision , and it may be far easier to simply let the status quo apply. However, citizens expect their elected representatives to make not only tough decisions, but fair and balanced ones, and at times one has to stand up, either identify an anomaly or acknowledge it once informed, and using the “wisdom of Solomon” re these anomalies, correct past inequities, address past discriminations and “do the right thing”.

We have diligently researched this matter and in the spirit of fairness feel it is time the status - quo on #4RD be seriously re-evaluated and remedied .

The ALR’s creation was quite expeditious and its criteria for inclusion far from perfect, and no more greater example than those of us on # 4 RD.

FYI: Of the 3 main criteria criteria used , it appears that simply the “AG” zoning of the #4Rd properties at the time was applied .

“AG “ zoning is simply used by many Local Gov’t to designate lands for OCP purposes, it is often the baseline zoning used but clearly not definitive, ie AG does not definitively imply there is any reasonable potential for future agriculture for all parcels deemed AG. AG zoning simply allows a Local Gov’t to piggyback policy etc onto raw land to deny such AG zoned properties services and uses that similar properties in fact enjoy.

AG zoning can often be BEST translated as “ *this is land a given Local Gov’t is not sure of re future uses, but calling it “ Agriculture” sounds better than (???) or “ Other “* .

EXAMPLE: Recently a landfill in Chilliwack was excluded form the ALR, it had always been a city dump even before the ALR’s creation, but again, arbitrarily included at the time. Many ALC decision acknowledge these past anomalies of ALR inclusion.

EXAMPLE : A Youth group camp on the Sunshine Coast , of approx. 70 acres in size, which had been a youth group camp since the 1920’s , was recently excluded from the ALR. The basic discussion was that if it had never been farmed in the past, why would there be any expectations of agriculture in the future. Exclusion granted Again, another anomaly .

EXAMPLE:

Richmond Nature Park is included within the ALR. That was based simply on the AG zoning of the day, but do we really believe that this park will ever be farmed ?

FYI:

Some jurisdictions do not decide on approval or denial of ALR applications, they submit the applications directly to the ALC. This begets the question, is the City concerned that our applications would be approved by the ALC without hesitation, and this is why the City Staff is recommending denial? The ALC would decide on the basis of true agricultural potential and viability, so should not the City defer to the ALC to decide? Anomalies such as ours should be weeded out, not kept in.

Again, to deny our applications simply exposes the City to potential of discrimination, inconsistencies, prejudices to a minority of its very own citizens, and possible "land banking" allegations.

Again, as noted earlier, 2 properties on # 4 RD. were zoned Commercial prior to the ALR's creation, ...Not AG....yet for sake of convenience # 4RD. was chosen as the ALR boundary, including these 2 commercial properties.

All we ask is equality and fairness, and to no longer be discriminated against. We do not seek the windfalls that the City was fully prepared on 2 occasions to give the Garden City Lands partners who are not Richmond citizens. Our continued inclusion simply allows the City to ignore us and continue to be increasingly negatively impacted by the increasing urban growth immediately West of us.

Our continued inclusion in the ALR will not promote and encourage agriculture, in fact it may do the exact opposite. This creates a lowest common denominator effect, a "one size fits all", "tar them with the same brush", "lock them up and throw away the key". **To maintain our inclusion deceives the public as to the actual amount of truly viable farmland, and concurrently discriminates against us. Everyone loses.**

I vividly recall when 2 current members of the Planning Committee, Councillors Sue Halsey - Brandt and Linda Barnes voiced how torn they were to approve the GCL application for 5555 # 4 RD. when we had submitted a document of our own #4RD concerns and seeking equal treatment.

In addition, Councillor Evelina Halsey - Brandt, who has acknowledged having a farming background, continually maintained the 136 Garden City Lands @ 5555 #4RD were not practical to farm. The same logic would obviously apply to our #4RD properties, literally 1/300 the size of the GCL.

Again, all we seek equity and fairness.

Our situation evolved from decisions made by past City administrations. We feel that the ALR designation is being used against us, for political and bureaucratic reasons only, and not fulfilling the intent of the ALR. Logic, reason (in all things being equal) and mutual respect between Staff Council and its citizens must take precedent and priority.

Again, as I stated earlier is the ALR being used as a ploughshare turned into a sword and being used against a minority of the City's own citizens?

We feel that after hearing our case, this current Council will readily identify a past injustice see the unfairness, and pro-actively remedy it and approve our applications being sent to the ALC.

Thank – You !!!

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SUMMARY :

(i) PAST Precedents/ Decisions

---In 2000. Council approved the exclusion applications of 7(.87) acre parcels which were once actively farmed parts of the Richberry farm.

---In both (i) 2005 and (ii) 2008, the City approved the ALR exclusion applications of the 136 acre Garden City Lands @ 5555 #4RD .

---In 2009, the City approved a Non - farm use application for other Richberry farm .87 acre holdings immediately North and adjacent to the parcels excluded in 2000. The non farm use will facilitate a processing plant which will remove the lands from any future agricultural production.

Our own applications involve

---smaller less than ½ acre parcels

---all in residential use .

The GCL application made claim of being surround on 3 sides by development , yet separated by roads

Each #4RD applicant is in similar situation, except immediately impacted by adjacent residences.

The City approved Richberry Farms applications in 2000 were bare parcels. .87 acre and twice the size of the #4RD applicants.

The City approved Richberry Farms application in 2009 will further remove ALR lands from future agriculture production, and simply be ALR in name only.

It should also be duly noted that much of the Richberry Farm area is comprised of .87 acre parcels. much like our East McLennan area

CONCLUSION :

In all good faith, in light of the City approving

---(2) Richberry farms applications in 2000 and 2009 .and

----the 136 acre Garden City Lands at 5555 #4RD on (2) occasions,
HOW can the city deny our #4RD applications ?

(ii) Buffers:

Staff reports are in error#4RD is NOT a buffer.

A buffer should neutralize impacts, a road cannot do that, it can in fact attract increasingly negative impacts ie increasing traffic volume.

Buffers re ALR are defined as vegetative strips

City has provided a "buffer" of a vegetated acreage to separate residences in the Hamilton area from the cranberry operations. #4RD ALR has no such "buffer" and has much higher density than the Hamilton area.

CONCLUSION:

Staff, with its interpretation of buffer and lack thereof for a true buffer for #4RD, has undermined their own arguments and proven our case moreso of urban impact and non agricultural viability of what is essentially an urban neighbourhood on the east side of #4RD.

Or, lack of buffer implies City has no foreseeable agricultural activity on #4RD.

(iii) Taxation and Farm Status

Staff apparently consider our #4RD residential properties as viable farmland.

One of the few, if any benefits of ALR inclusion is the potential to be eligible for reduced property taxes ie if one is deemed eligible for " farm status" by BC Assessment.

However, as stated earlier, there are rules in place which are related to property size. A ½ acre parcel must achieve \$10,000 in primary agricultural production (as defined on a list) to be eligible for farm status and hence reduced property taxes..

-----Using the Citys own data of average agricultural productionthis \$10,000 in production is impossible to achieve on a bare ½ acre.

-----On a ½ acre in residential use, it is even moreso impossible, given there is less land available after buildings, septic fields, driveways etc . etc. are in place.

Finally,

----BC assessment has stated there are no ½ acre parcels in Richmond that have achieved farm status.

---BC Assessment has indicated that it would not give farm status to a ½ acre lot with residences, given the property would be deeded in residential use,(highest and best use) and could not in any reasonable sense be deemed a farm.

CONCLUSION:

BC Assessment and farm status rules effectively deem our #4RD properties as urban residential lots with no practical means to be deemed a farm in the past, present or future. This conflicts with the intent of the ALR

(iv) Backlands

“We are not our brother’s keeper”

Many of the properties in the East McLennan area are less than 2 acres.

In fact, most of the parcels immediately east of the #4RD properties are .87 acres, much like the Richberry farms parcels.

Most of these are not farmed and are overgrown with trees and bushes and deemed ESA. East of these backland parcels is Johnson Road, which is also overgrown and not accessible. Hence these backland parcels and Johnson road both act as buffers in the classic sense.

Those few small parcels that are farmed only due so because they can take advantage of farm status, unlike those of us on #4RD , given they are bare parcels who are also allowed to amalgamate their production with others under the farm unit provision. Otherwise, they would not be able to achieve farm status.

CONCLUSION:

4RD properties, in the spirit of fairness, should not be held hostage to what happens in the backlands properties east of us, most of which are not farmed. Many of these backlands owners choose not to farm, and there is no evidence to suggest our #4RD inclusion has any bearing on that. Clearly, those that do farm do so simply for reduced property taxes(ie on average \$50 versus \$1000) which is ironically a tax burden shifted onto the rest of us who can NEVER achieve farm status.

Thus, Why should we suffer from depreciated property values so that someone can save a few hundred dollars?

That is the sober reality.

I ask you, is that fair?

(v) Soil Report:

City maps identify the soil in our area as peat

As stated, Staff have not provided what rationale this requested soil report serves. Residential construction has impacted the original soil. One may find several soil types due to this ie fill, sand gravel etc. gain that would be expected, but would have nothing to do with agriculture, but in fact strengthen our case. We found that Soil reports are very cost probative, amounting to several thousand dollars.

Section 49 of the ALC Act allows for the ALC to send its own soil expert onto a site at its own discretion if it so chooses to perform analysis and research. I have also discussed this with ALC's soil expert Trevor Murrie . We submit that, via Section 49 of the ALC Act, we let the ALC decide of soil analysis is required....to avoid unnecessary cost, though my discussion with Mr Murrie lead me to conclude it would not be required and a waste of the ALC's resources.

CONCLUSION:

Soil report is unnecessary and a red herring

Bylaw 5300

Subdivision of AG lands:

The Bylaw states that an ALR parcel cannot be subdivided smaller the 2 hectares or 4.9 acres

Interpretation:

City feels that the minimum acreage for a farm is approx 5 acres. or 10x's the size of a ½ acre. Hence, it is beyond reasonable to presume that a ½ acre residential lot cannot be a viable farm

Animal Control Regulation:

(Bylaw 7932)

This bylaw effectively prohibits domestic farm animals on parcels less than a full ½ acre.(ie 21,500) sq. ft.

Each applicant property is less than a full ½ acre.(approx. 19,000 sq. ft.)

The prohibition of domestic farm animals conflicts with the classic definition of agriculture ,which allows for raising of such livestock.

CONCLUSION:

City Bylaw 7932 effectively defines the applicant properties as Non -agricultural, as it is not 100% consistent with the classic definition of agriculture, as it should be . This Bylaw likely was implemented to define small urban lots both ALR and Non ALR most of

which are less than true ½ acre (ie dense and in close proximity)...hence, all things being equal we on #4RD are Urban lots that should be excluded from the ALR.

Sewers:

There are numerous examples of ALR properties in Richmond which are connected to the sanitary sewer system, including (2) #4RD ALR properties.

CONCLUSION:

City sewer policy is inconsistent and somewhat discriminatory.

Duly noted is its drafting AFTER inquiries by various ALR property owners.

Garden City lands GCL: “ 3 sided urban impact argument”

GCL are located at 5555 #4RD

Staff and Council submitted these lands were not viable for agriculture due to their claim that 3 sides of the GCL were surrounded by urban encroachment.

The very same rationale applies to each #4RD applicant ie neighbours on each side and high density development on the west side of #4RD ..

CONCLUSION::

Staff and Council must be consistent towards all their constituents in their decision making

Section 23 of the ALC Act:

Re: parcels less than 2 acres

I would submit that Section 23 is not definitive of future agriculture for properties less than 2 acres , it is in fact admitting that such small parcels are not viable for agriculture . Duly note that Section 23 does not take into account soil types , wether they be good or poor soil .

It is far more logical to presume that Section 23 of the ALC Act was created to allow for such ease or convenience of inclusion so as to allow roads to become quick, convenient and easy boundaries, given time was of the essence for the ALR's creation. So, in essence, the authors of the ALR realized parcels less than 2 acres can't be farmed in a practical sense, regardless of the soil, yet at the same time allowed them to be included in the ALR. Again arbitrary and not definitive.

CONCLUSION:

Illogical, impractical , simply expeditious for political convenience to hasten the ALR's creation .

Consolidation of small parcels:

As I have outlined, this would decrease property values on a sq. ft basis.

In addition, and large consolidation (ie greater than 2 acres) would have increased land use restrictions

Not practical aka this will not happen

#4RD History:

Our research has shown that prior to the ALR's creation many #4RD properties were .87 acre. (ie twice their current size)

After the ALR's creation , the City allowed many of these parcels to be subdivided into (2) .43 acre parcels. (Given Section 23 of the ALC Act, this was permitted, as there were no restrictions on parcels less than 2 acres, thus the City could do as it pleased ie or all intents and purposes, the City had 100% control of the land uses for such small parcels .)

Thus, by subdividing these .87 acre lots, and allowing 2 homes were once only one home stood, the City clearly had no interest in preserving agriculture on #4RD's ALR , but was in fact, creating a higher density urban neighbourhood in the ALR side of #4RD on par with many properties in the City Center at the time .

In essence, the City actually densified the East side of #4RD by 100% prior to the West Side of #4RD and collected the appropriate DCC's (higher \$\$\$ value to the City coffers than farm production)

It is ludicrous to suggest now, several year later, that such small #4RD properties "still in the ALR" which the City allowed to be subdivided will have any agricultural potential.

If it did, it should have not allowed the subdivisions, but that it is too late now. " the horse is out of the barn"

In addition, under Section 23 , the City used its powers to take full control of these less than 2 acre ALR parcels and allowed 2 churches to be built, which is not consistent with ALR and AG zonings. The City allowed the churches to be built and changed the zoning from AG to ASY.

Thus, since the ALR was created, and under the Section 23 provisions, the City has allowed many of the original #4RD properties to be subdivided, hence densified , far more urban, and allowed two churches to consolidate properties and also establish themselves on #4RD .

CONCLUSION::

The City has taken full advantage of Section 23 , which effectively gives it 100% control of land uses of ALR parcels less than 2 acres to further densify #4RD .
The City has also allowed other rezoning applications (ie from AG to ASY) .

In doing so , the City has forever removed any/all true agricultural capability and viability from the majority of #4RD properties , an inconsistent with the classic definition of agriculture, and it is ludicrous to claim otherwise.

SUMMARY CONCLUSION :

Taking the many facts presented in this submission, we submit there was no rationale for the original ALR inclusion of the #4RD applicant properties who have followed due process to seek ALR exclusion .

This submission has outlined in great detail reasons why any past , present and future viable agriculture potential for the applicant properties is either not possible nor feasible and in fact may contravene City bylaws.

Sincerely:

Roland Hoegler