



# City of Richmond

## Report to Committee Planning and Development Department

**To:** Planning Committee

**Date:** May 5, 2014

**From:** Wayne Craig  
Director of Development

**File:** AG 12-613731

**Re:** Application by Kutny's Landscaping Ltd. for an Agricultural Land Reserve  
Non-Farm Use (Subdivision) at 9811 and 9771 No. 6 Road

### Staff Recommendation

That authorization for Kutny's Landscaping Ltd. to apply to the Agricultural Land Commission for a non-farm use to subdivide in order to adjust the lot lines at 9811 and 9771 No. 6 Road, be granted.

  
Wayne Craig  
Director of Development

WC:ke  
Att.

**REPORT CONCURRENCE**

**CONCURRENCE OF GENERAL MANAGER**



## Staff Report

### Origin

Kutny's Landscaping Ltd. has applied to the City of Richmond for permission to apply to the Agricultural Land Commission (ALC) for a non-farm use for the properties at 9811 and 9771 No. 6 Road (**Attachment 1** – Location Map). The ALR non-farm use application would allow a subdivision to permit a lot line adjustment to allow 9811 No. 6 Road (currently 35,756 sq. m or 3.57 ha) to be 4,047 sq. m (0.4 ha) in area and 9771 No. 6 Road (currently 4,044 sq. m or 0.4 ha) to be 35,906 sq. m (3.59 ha) in area. This proposed lot reconfiguration will not result in the creation of any new lots and does not require any new road extension or construction in the Agricultural Land Reserve (**Attachment 2**).

This ALR non-farm use application requires consideration and endorsement by Council. If endorsed by Council, the ALR non-farm use application will be forwarded to the ALC for their consideration.

### Project Description

The subject site at 9811 No. 6 Road is currently used for a soil processing business that provides landscaping topsoil for a variety of users. A family member and part owner of the business resides on 9811 No. 6 Road that contains a house and majority of the soil processing operations. Another family member and part owner of the business resides at 9771 No. 6 Road that contains a house and other accessory buildings.

The proposal involves a subdivision to adjust the lot lines that will allow the current principal family member owner/operator of the soil processing business at 9771 No. 6 Road to have all business operations on this property, while also allowing the family member and former principal owner/operator (retired) of the business to continue to live at 9811 No. 6 Road in the existing house.

### Findings of Fact

A Development Application Data Sheet providing details about the development proposal is contained in **Attachment 3**.

In 1993, a previous ALR non-farm use application to subdivide 9811 No. 6 Road to allow for the creation of a 0.2 ha (2,000 sq. m), in addition to the existing lot at 9811 No. 6 Road (35,756 sq. m or 3.57 ha) and 9771 No. 6 Road (4,044 sq. m or 0.4 ha) was made by the same proponent. This land use application was not supported by Council and as a result, was not considered by the ALC.

The operations on the subject site are processing of soils for various commercial, agricultural and landscaping top soil applications. As the subject site is contained in the Agricultural Land Reserve (ALR), application to and approval from Council and the ALC is required to allow the soil processing activities. The site has had a permit to operate from the ALC since 1982. The latest ALR non-farm use application (for purposes of soil processing) was endorsed by Council on June 28, 2010 and forwarded to the ALC who approved the application on October 13, 2010. It is anticipated that the proposed subdivision to permit a lot line adjustment will not impact this

previous approval allowing the soil process activities. If the lot line adjustment is supported by Council, any necessary amendments to the soil processing approval can be addressed by the ALC when they consider this application.

### **Surrounding Development**

To the North: an “Agriculture (AG1)” zoned property that contains a single-family house and farm activities.

To the East: across No. 6 Road, an “Agriculture (AG1)” zoned property that contains a single-family house and farm activities.

To the South: across the Williams Road unopened road allowance, “Agriculture (AG1)” zoned property that contains a single-family house and farm activities.

To the West: an “Agriculture (AG1)” zoned property containing a single-family house and farm activities on a property that fronts onto Sidaway Road.

### **Related Policies & Studies**

#### 2041 Official Community Plan

The subject site is designated for “Agriculture” in the 2041 Official Community Plan (OCP), which permits primarily farming, food production and supporting activities, including those activities permitted in the ALR. The proposed lot line adjustment requires approval from the ALC and therefore complies with the existing 2041 OCP land use designation and no OCP amendment is required.

#### Zoning – Agricultural (AG1)

Both subject properties have “Agricultural (AG1)” zoning. There is an existing provision in this zoning district that does not allow for further subdivision of lands and requires a minimum 20,000 sq. m (2 ha) lot size. The exception to this zoning regulation is if a subdivision is approved by the ALC (through a non-farm use application) that can specify a lot size that is less than the 20,000 sq. m (2 ha) minimum. As a result, the proposal to subdivide in order to adjust the lots and create a parcel less than the identified minimum area would comply with existing zoning as the proposal is subject to an ALR non-farm use application process.

#### Flood Plain Designation and Protection Bylaw 8204

In accordance with the City’s Flood Plain Designation and Protection Bylaw 8204, a flood plain covenant identifying a minimum flood construction level of 3.0 m will be secured and registered on title of 9811 and 9771 No. 6 Road through the subdivision application.

## Consultation

The subject proposal was reviewed by the City's Agricultural Advisory Committee (AAC), with the following motion supported by the AAC (Please see **Attachment 4** for an excerpt of the December 13, 2012 AAC meeting minutes):

*That the proposed lot reconfiguration at 9771 and 9811 No. 6 Road be supported subject to a notification to be placed on the lots to inform existing and all future property owners about surrounding agricultural activities.*

In response to the AAC comments, staff advise that the proposal does not involve a sale of the properties and has been requested for the purposes of long-term estate and business planning matters. The subject sites will remain designated as Agriculture in the 2041 OCP, zoned "Agriculture (AG1)" and within the Agricultural Land Reserve. Staff also reviewed the legal title of both properties and confirmed there is an existing notation on each title that references the site's are impacted by the ALR and ALC Act. Information on these existing notations on title were not known when the AAC considered the application. These notations will remain on title and not be impacted by the proposed lot line adjustment; therefore, no further notations on title of each property is recommended.

## Staff Comments

### Driveway Provisions

The subdivision layout involves a driveway access for the proposed adjusted southern lot at 9811 No. 6 Road (4,047 sq. m or 0.4 ha) to No. 6 Road, which will be required at the property owners sole cost. Transportation staff have no objections over the proposed driveway to No. 6 Road for 9811 No. 6 Road. The northern lot at 9771 No. 6 Road has an existing vehicle driveway to No. 6 Road and no changes are proposed for this access arrangement.

### Environmentally Sensitive Area Designation

A small portion of 9811 No. 6 Road has an existing Environmentally Sensitive Area (ESA) designation located at the south west corner of the property (See **Attachment 5**). The proposed subdivision to adjust the lot lines does not impact this ESA or result in any development activities that would disturb this area. The proponent has indicated that the existing soil processing activities will not disturb or remove any of the trees within the ESA. Furthermore, no tree removals on agricultural land is permitted unless it is for bonafide farm activities (based on the 2041 OCP).

### Riparian Management Area

A 5 m wide Riparian Management Area (RMA) exists along the subject site's south property line (along the unimproved Williams Road allowance) and overlaps with the existing ESA at the southwest corner of the site (**Attachment 5**). The proposed lot line adjustment does not result in any development activity or modification within the 5 m RMA and as a result does not require any specific response and/or mitigation measures.

## Analysis

The proposed lot line adjustment to 9811 and 9771 No. 6 Road is a minor subdivision that requires an ALR non-farm use application that will result in:

- A reduction of area at 9811 No. 6 Road from 35,756 sq. m (3.57 ha) to 4,047 sq. m (0.4 ha).
- An increase in area at 9771 No. 6 Road from 4,044 sq. m (0.4 ha) to 35,906 sq. m (3.59 ha).
- No increase in the number of lots in the ALR.
- No additional development on either of the proposed lots.

The proposed subdivision to adjust the lot lines is supported on the following basis:

- An exchange of the lots (as they are currently configured) amongst family members rather than adjusting the lot lines as proposed is not feasible given recent investment at 9811 No. 6 Road for the construction of a new house to replace the existing one for a family member.
- The proposed lot line adjustment does not involve further subdivision involving the creation of a new lot on agricultural land (previously not supported by Council in 1993). In the previous 1993 ALR subdivision application that was not supported, a lot line adjustment was suggested as a potential alternative to be considered by the owners. As a result, the current proposed lot line adjustment is consistent with the City's direction on the previous proposal tabled in 1993.
- Although the existing soil processing operation is not involved in farming or production of a specific commodity sector, the activities provide supporting agricultural functions to assist in providing soils to local farmers and greenhouse/horticultural operators.

This lot line adjustment addresses long-term estate and business management related to the owner's succession planning for the soil processing operations associated with the subject site. If the application is endorsed by Council, it will be forwarded to the ALC for consideration. If approved by the ALC, a subdivision application will be processed by staff, to address all remaining technical components of the proposal. Please refer to **Attachment 6** for the subdivision considerations identified to be completed through the processing of this ALR non-farm use application.

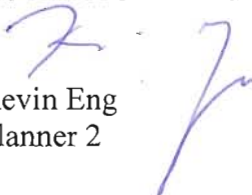
## Financial Impact

None.

## Conclusion

Staff recommend that the ALR non-farm use application at 9811 and 9771 No. 7 Road to subdivide in order to adjust the lot lines as outlined in this report be endorsed by Council and that the ALR non-farm use application be forwarded to the ALC.

Kevin Eng  
Planner 2



KE:cas

Attachment 1: Location Map

Attachment 2: Proposed Subdivision Plan

Attachment 3: Development Application Data Sheet

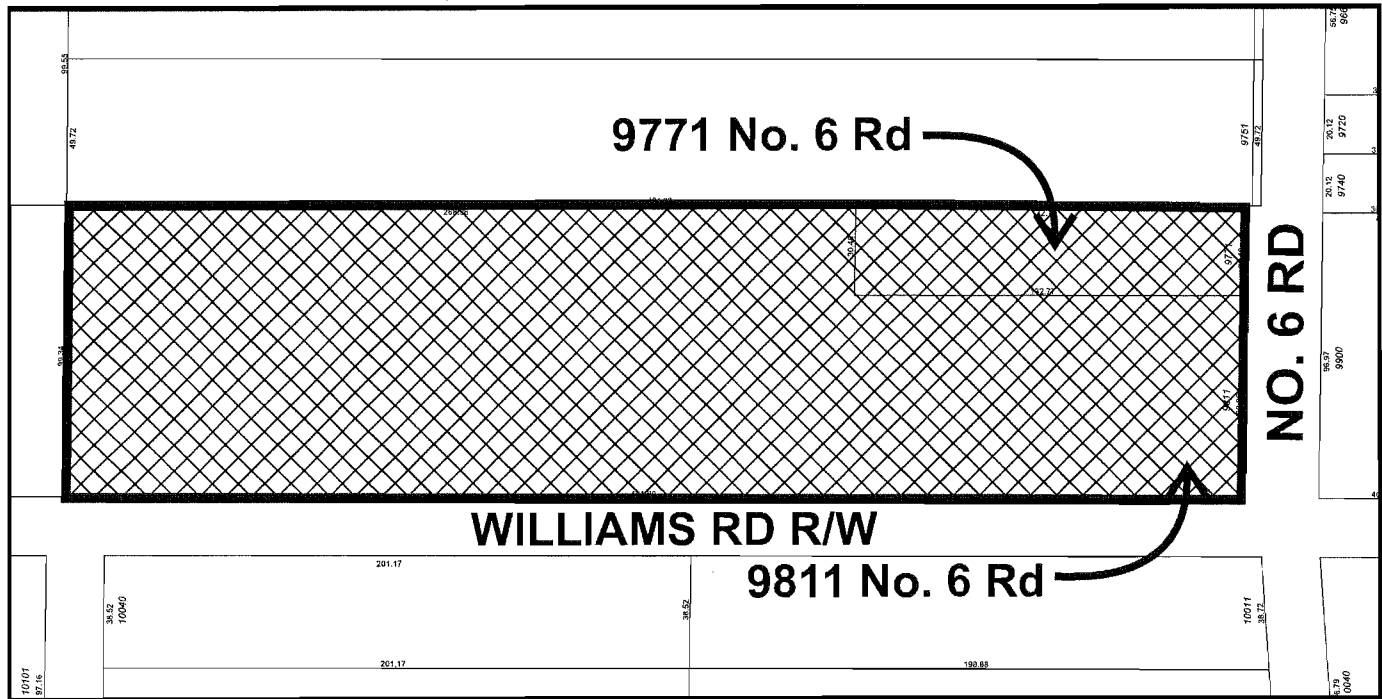
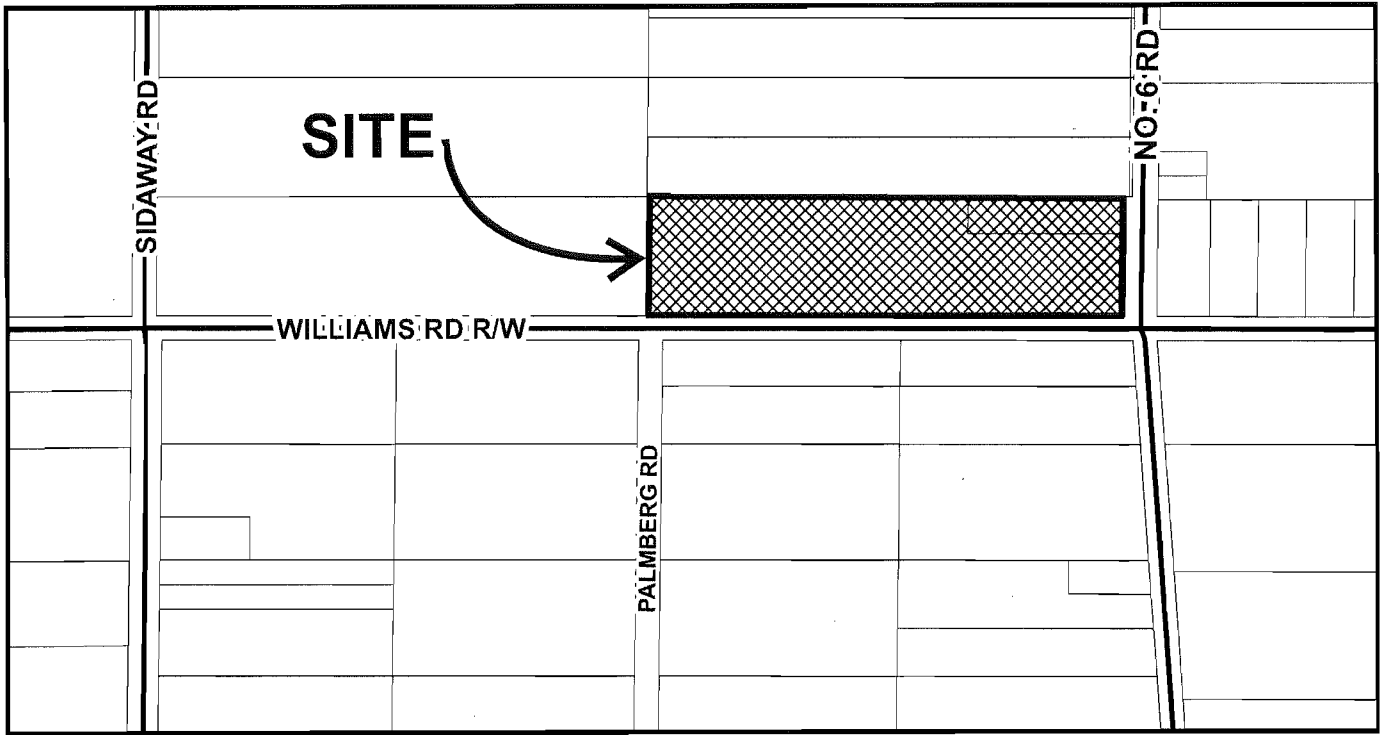
Attachment 4: Excerpt of Agricultural Advisory Committee Meeting Minutes

Attachment 5: Environmentally Sensitive Area and Riparian Management Area Map

Attachment 6: Subdivision Considerations



# City of Richmond



**AG 12-613731**

Original Date: 05/01/14

Revision Date: 05/08/14

Note: Dimensions are in METRES



City of  
Richmond



AG 12-613731

Original Date: 05/01/14

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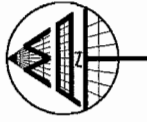


R-11-15172-CERT

**BRITISH COLUMBIA LAND SURVEYOR'S CERTIFICATE OF LOCATION  
SHOWING BUILDINGS ON PROPOSED LOTS A AND B SECTION 29  
BLOCK 4 NORTH RANGE 5 WEST NWD PLAN BCP**

**ADDRESS:**

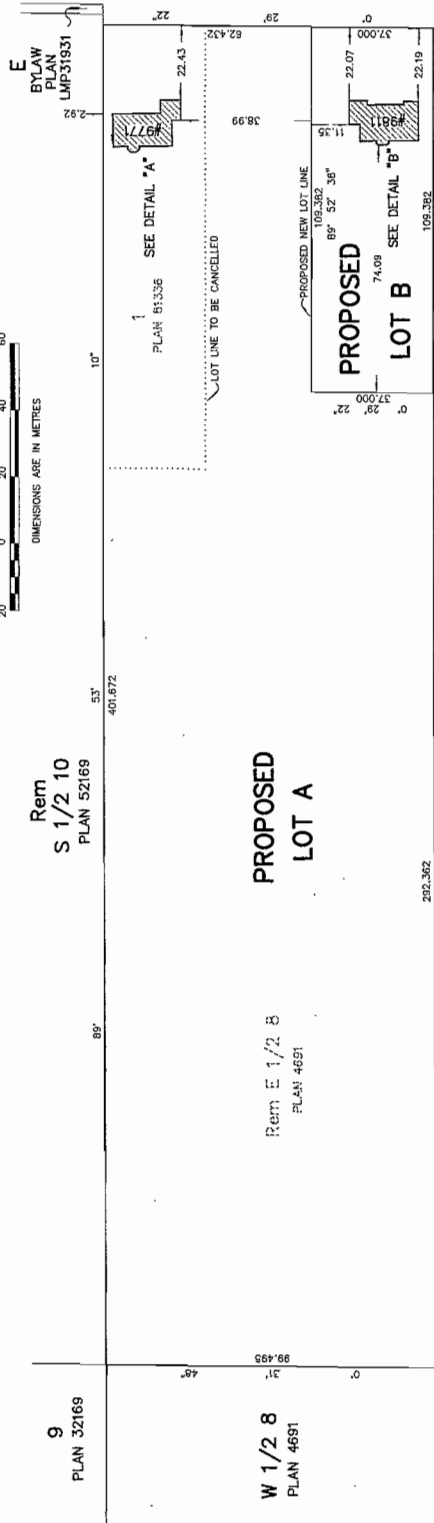
- (1) PROPOSED LOT A: #9771 NO. 6 ROAD, RICHMOND
- (2) PROPOSED LOT B: #9811 NO. 6 ROAD, RICHMOND



LEGEND.

SCALE 1:1000

DIMENSIONS ARE IN METRES



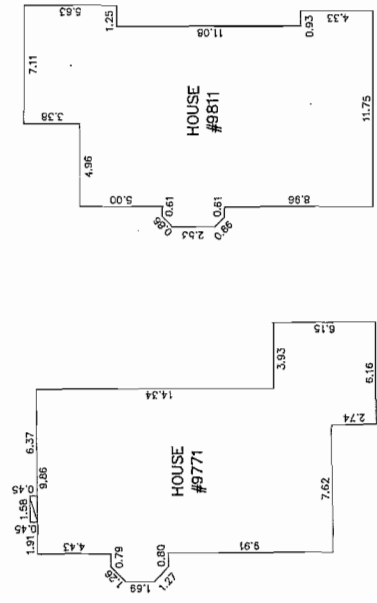
Rem S 1/2 10  
PLAN 52169

PROPOSED  
LOT A

Rem E 1/2 B  
PLAN 4691

W 1/2 8  
PLAN 4691

WILLIAMS ROAD



**DETAIL "A"**  
HOUSE #9771 NO. 6 ROAD  
1:200

**DETAIL "B"**  
HOUSE #9811 NO. 6 ROAD  
1:200

**NOTES:**  
MEASUREMENTS ARE TO SIDING OR STUCCO.  
THIS PLAN IS INTENDED ONLY TO SHOW THE POSITION OF CERTAIN IMPROVEMENTS WITHIN THE SUBJECT PARCEL. NO OTHER INFORMATION IS TO BE USED FOR THE LOCATION OF PROPERTY LINES OR FOR BUILDING MODIFICATIONS. WE ACCEPT NO RESPONSIBILITY FOR ANY UNAUTHORIZED USE.

THIS CERTIFICATE IS VALID ONLY UNDER THE ORIGINAL TERMS AND CONDITIONS OF OUR CONTRACT WITH THE PARTY FOR WHICH IT WAS PREPARED, AND AS SUCH ONLY ON THE DATE CERTIFIED HEREON. SUBSEQUENT ADDITIONS AND MODIFICATIONS TO TITLE, PROPERTY LINES, OR IMPROVEMENTS WITHIN THE ABOVE PARCEL WILL CAUSE IT TO BE INVALID AND OUT OF DATE.

**MATSON PECK & TOPLISS**  
SURVEYORS & ENGINEERS  
#320 - 11120 HORSESHOE WAY  
RICHMOND, B.C. V7A 5H7  
PH: 604-270-3331  
FAX: 604-270-4137

CLIENT REF: DERRICK KUTNY

R-11-15172-CERT

CADFILE 15172-000-CERT-000.DWG

DATE OF SURVEY: JUNE 28, 2011

*Stanger*  
B.C. LAND SURVEYOR (F712)

THIS DOCUMENT IS NOT VALID UNLESS  
ORIGINALLY SIGNED AND SEALED.



**AG 12-613731**

**Attachment 3**

Address: 9811 and 9771 No. 6 Road

Applicant: Kutny's Landscaping Ltd

	Existing	Proposed
<b>Owner:</b>	9811 No. 6 Road – Kutny's Landscaping Ltd. 9771 No. 6 Road – D. and J. Kutny	No change.
<b>Site Size (m<sup>2</sup>):</b>	9811 No. 6 Road – 35,756 m <sup>2</sup> 9771 No. 6 Road – 4,044 m <sup>2</sup>	9811 No. 6 Road – 4,047 m <sup>2</sup> 9771 No. 6 Road – 35,906 m <sup>2</sup>
<b>Land Uses:</b>	9811 No. 6 Road – Single-family dwelling and soil processing operation. 9771 No. 6 Road – Single-family dwelling.	9811 No. 6 Road – Single-family dwelling. 9771 No. 6 Road – Single-family dwelling and soil processing operation.
<b>Agricultural Land Reserve:</b>	Both sites are contained in the ALR.	No change – both sites will remain in the ALR.
<b>OCP Designation:</b>	Agriculture	No change – complies.
<b>Zoning:</b>	Agriculture (AG1)	No change - complies
<b>Other Designations:</b>	Environmentally Sensitive Area (ESA) at south west corner of 9811 No. 6 Road 5 m Riparian Management Area (RMA) along south edge of 9811 No. 6 Road	No impacts to ESA or RMA as a result of the proposed lot line adjustment

Excerpt of AAC Meeting Minutes  
December 13, 2012

**Development Proposal at 9771/9811 No. 6 Road (Non-farm Use – Subdivision)**

Staff provided background on the proposed subdivision/lot line reconfiguration at 9771/9811 No. 6 Road which facilitates the “flipping” of the existing lots so that a proposed larger north lot (containing the soils operation) would be associated with the house to the north and that a smaller parcel (1 acre) would be maintained on the south. The owners of Kutny’s soil operation also confirmed that rationale for the reconfiguration of lots is to enable the transfer of the soil operation to the son and enable the father to remain in his existing house (proposed southern lot). Staff confirmed that currently, two lots exist and that the proposed lot reconfiguration does not result in the creation of any additional lots.

Information was provided about the ALC approval to allow the soils operation to continue in 2010 and that the approval is specific to the existing operators and cannot be transferred to a different individual or owner. AAC members suggested that options be looked at to place a notification to inform about surrounding agricultural activities. Staff confirmed that if the lot reconfiguration is approved, the proposed two lots could be sold independently as they are two separate lots currently.

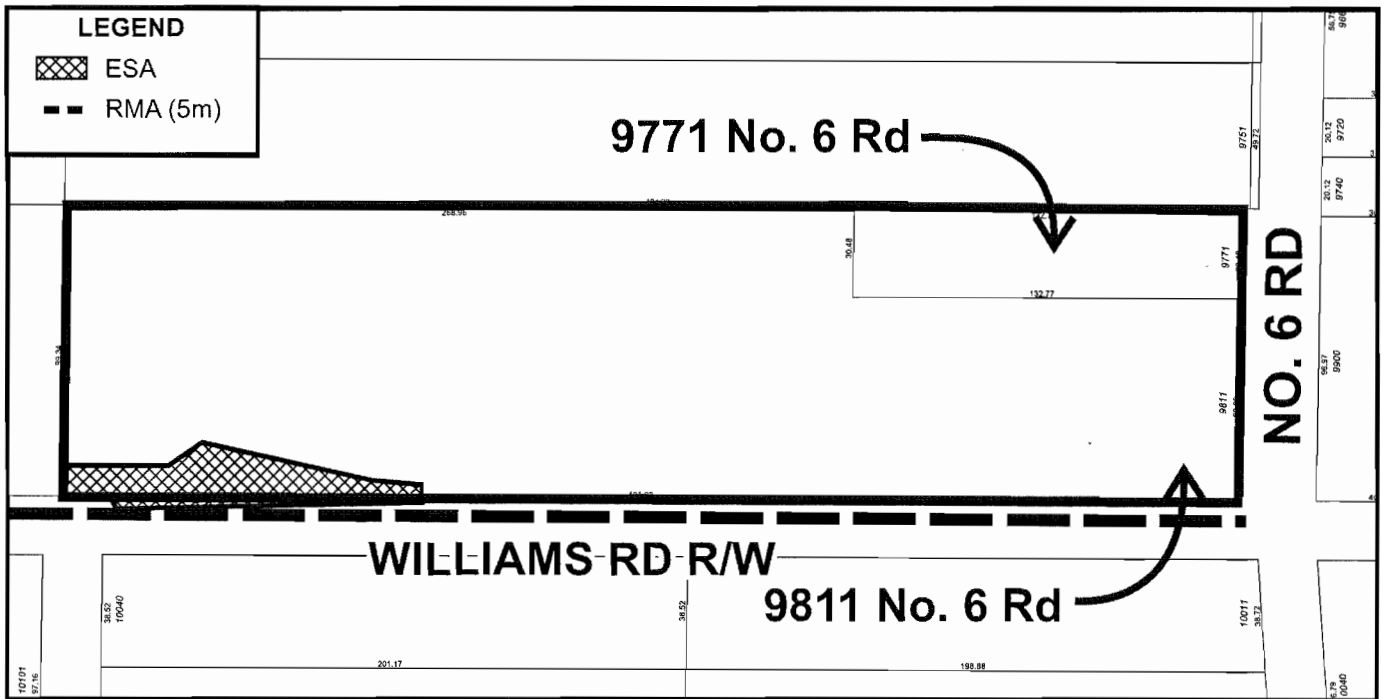
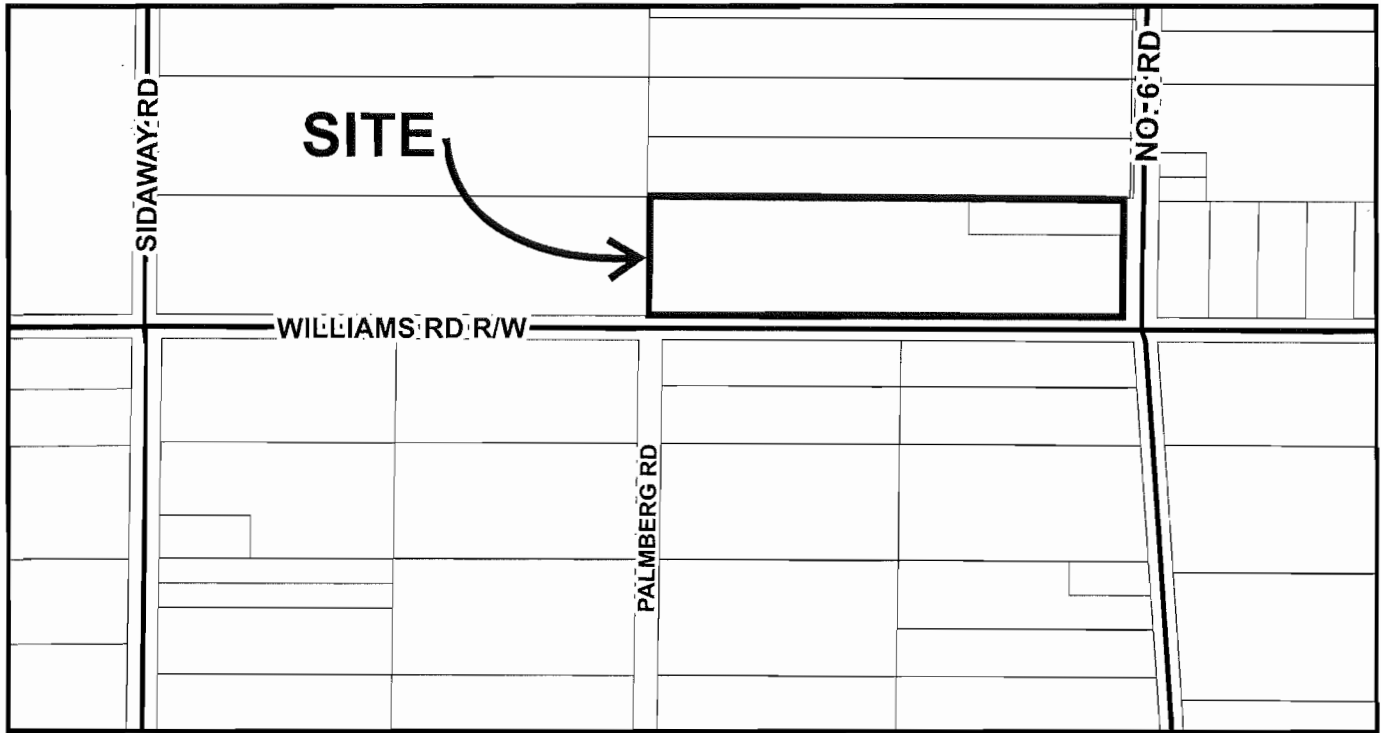
AAC members forwarded the following motion:

*That the proposed lot reconfiguration at 9771 and 9811 No. 6 Road be supported subject to a notification to be placed on the lots to inform existing and all future property owners about surrounding agricultural activities.*

*Carried Unanimously*



City of  
Richmond



	<p>Environmentally Sensitive Area (ESA) and Riparian Management Area (RMA-5m) Reference Map</p>	<p>Original Date: 05/01/14 Revision Date: 05/08/14 Note: Dimensions are in METRES</p>
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City of  
Richmond

ATTACHMENT 6

## Subdivision Considerations

Development Applications Division  
6911 No. 3 Road, Richmond, BC V6Y 2C1

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**Address:** 9811 and 9771 No. 6 Road

**File No.:** AG 12-613731

**In addition to the conditions to be identified in the Preliminary Letter of Approval associated with the forthcoming subdivision application, the property owners are required to complete the following:**

1. Implementation of a driveway access to 9811 No. 6 Road to No. 6 Road at the owners sole cost.
2. Registration of a flood plain covenant on title of 9811 and 9771 No. 6 Road identifying a minimum habitable elevation of 3.0 m GSC.
3. Confirmation of Agricultural Land Commission approval of the ALR non-farm use (subdivision) application.