

# Report

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Subject Agricultural Land Commission Subdivision Application (ID 102118) 7088 and 7136 Richards Trail

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## **PURPOSE**

To consider an Agricultural Land Commission (ALC) Subdivision Application for 7088 and 7136 Richards Trail to enable Promise Valley Farm's acquisition of adjacent pasture and hay fields.

## **BACKGROUND**

The subject properties are 7088 and 7136 Richards Trail, each measuring just over 10 hectares (25 acres) in area and located within the Agricultural Land Reserve (ALR), subject to local government and ALC land use regulations. Their designation under the Official Community Plan (OCP) is "Agriculture, Forestry & Conservation" and both are in the A1 Agricultural Zone. The location and orthographic images of the subject properties are provided in Attachments 1 and 2, and a zoning context map is provided in Attachment 3.

Promise Valley Farm and Creamery has been operating at 7088 Richards Trail as an organic dairy farm since 2021. The property owners have owned and worked the land for a variety of agricultural uses since 2006. For the last 18 years, they have also had an informal arrangement with their neighbour at 7136 Richards Trail to lease approximately 6 acres of land to produce hay and pasture their herd. The owner of 7136 Richards Trail is contemplating selling the property, which jeopardizes the long-term agreement with Promise Valley Farm and Creamery. To secure the use of this land in perpetuity in support of their organic dairy farm operations, the owners of Promise Valley Farm and Creamery have proposed a subdivision between the two properties, which would allow property boundaries to be re-aligned and have approximately 4.14 hectares (10.23 acres) from 7136 Richards Trail amalgamated with 7088 Richards Trail. Promise Valley Farm and Creamery has provided a sketch plan of the proposed new property boundaries (Attachment 4).

Applications for subdivision of ALR land must be authorized by a local government before the ALC can consider them. Such authorization would come from North Cowichan Council in the form of a resolution to forward the application to the ALC for decision. If Council does not provide this authorization, the application is terminated and proceeds no further.

## **DISCUSSION**

### **Proposal**

The owners of 7088 Richards Trail (Promise Valley Farm and Creamery) have submitted an application to the ALC (Attachment 5) for subdivision of 7136 Richards Trail and amalgamation of a 4.14-hectare portion of the property with their own. This proposal does not result in any loss of agricultural land or the creation of any additional lots. No new development of either of the existing parcels is proposed:

Property	Current Size	Proposed Post-Subdivision Size
7088 Richards Trail	10.15 ha (25.07 ac)	14.29 ha (35.3 ac)
7136 Richards Trail	10.13 ha (25.03 ac)	5.99 ha (14.8 ac)

The applicant wishes to acquire ownership of some of the arable/usable open land on their neighbour's property to secure the necessary grazing and hay lands to support their organic dairy farm. They have advised that it is not financially feasible to purchase the entirety of 7136 Richards Trail, given the value of the two dwellings on the property. So, they are pursuing this subdivision and amalgamation proposal instead.

Section 21(2) of the *Agricultural Land Commission Act* (Act) allows an owner of agricultural land to apply to the ALC for permission to subdivide land within the ALR. Section 25(1)(b) of the Act outlines the discretion of the ALC to do one of the following:

- (i) refuse to grant permission for the subdivision applied for,
- (ii) grant permission, with or without limits or conditions, for the subdivision applied for, or,
- (iii) grant permission for an alternative subdivision, with or without limits or conditions, as applicable.

Before the ALC will consider this application, Council must authorize it (through resolution) to proceed to the ALC. This will permit the ALC to consider the applicant's subdivision application against the Act, its regulations, relevant policies, and past decisions. The ALC requires this process of all local governments in the province.

### **ALC Policy Context**

The purpose of the ALC as identified in section 6(1) of the Act, is:

- (a) to preserve the agricultural land reserve,
- (b) to encourage farming of land within the agricultural land reserve in collaboration with other communities of interest; and,
- (c) to encourage local governments, First Nations, the government and its agents to enable and accommodate farm use of land within the agricultural land reserve and uses compatible with agriculture in their plans, bylaws and policies.

Section 6(2) further expands upon the purpose of the ALC in giving priority to enhancing and protecting the size, integrity, and continuity of the ALR land base, as well as the use of the ALR for farm use.

Following a thorough review of the application, staff believe the subdivision proposal of the applicant is consistent with the intentions of section 6 of the Act in the following ways:

- The size and continuity of the ALR is maintained.
- The operations of Promise Valley Farm and Creamery have made farming use of the lands in a sustainable manner for many years.

- The subdivision proposal does not create any additional parcels with increased non-agricultural development potential, nor does the boundary adjustment increase the non-agricultural development potential of either property.
- The subdivision proposal allows 7136 Richards Trail to still maintain significant acreage west of the residences for a new owner to pursue standalone agricultural operations.
- The subdivision proposal encourages long-term agricultural use of the land at a potentially higher intensity if made part of the dairy farm property, supporting the viability and continuity of a thriving local agricultural business.

### North Cowichan OCP Policy Context

The subject properties are both designated as “Agriculture, Forestry and Conservation” in the OCP (Bylaw No. 3900, 2022). Various policies exist within the OCP concerning the designation of agricultural land use, agricultural protection and retention in the region, and specifically with respect to the subdivision of agricultural parcels. These policies are further supported by earlier key documents, such as the North Cowichan Strategic Agricultural Plan (2001). The following are deemed to be supportive of this particular application:

<i>Vision, Goals, Principles &amp; Frameworks</i>	
Section 2.3, Goal 5	Enhance food security in North Cowichan by encouraging local food production and protecting agricultural land.
Section 2.3, Goal 6	Support a thriving economy that focuses on sustainable jobs and local businesses including green technologies and innovative agriculture which leads to meaningful work and prosperity for all and responds to regional economic change.

<i>Agriculture, Forestry and Conservation Designation</i>	
3.2.17 a. & b.	The Municipality will strive to: <ul style="list-style-type: none"> <li>(b) Permit subdivisions only in exceptional circumstances (e.g. those that reconfigure parcel boundaries to improve agricultural viability, conservation, or other objectives of the Rural designation).</li> <li>(g) Encourage small scale agricultural use and the processing of local agricultural products.</li> </ul>

<i>Food Security &amp; Local Agricultural Systems</i>	
7.2.1 a. & b. (Objectives)	<ul style="list-style-type: none"> <li>(a) Protect the agricultural and farmland base.</li> <li>(b) Strengthen the economic vitality of farming by encouraging farming and food processing as a viable business enterprise, employment opportunity and way of life.</li> </ul>
7.2.2 a., b. & s.	The Municipality will strive to: <ul style="list-style-type: none"> <li>(a) Protect land within the Agricultural Land Reserve (ALR) and other agriculturally productive lands from inappropriate development.</li> <li>(b) Not support exclusion of agricultural lands from the ALR and subdivision of ALR lands (including homesite severances) unless there is no net loss of ALR lands, and a net benefit to agriculture can be clearly demonstrated.</li> </ul>

	(s) Encourage the development of local food processing and distribution facilities that support Vancouver Island producers.
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### North Cowichan Zoning Bylaw

The subject properties are both zoned A1 Agricultural in the Zoning Bylaw (Bylaw No. 2950, 1997). The minimum prescribed lot area in the A1 zone is 12 hectares (29.65 acres). As both subject properties were created by subdivision in 1922 prior to this prescribed zoning or minimum lot size, they are considered legally non-conforming. The same can be said for the two detached residences that exist on 7136 Richards Trail; both were constructed prior to residential density limits being applied through a Zoning Bylaw and are thus considered legally non-conforming.

The subdivision proposal would result in 7088 Richards Trail acquiring enough land to exceed the minimum lot size prescribed for the A1 zone, but the same cannot be said for 7136 Richards Trail. As the subdivision plan proposes to downsize 7136 Richards Trail to just under 6 hectares, the property owner would have to undergo a zoning amendment to the A2 Rural Zone with its minimum lot size of 2 hectares (4.94 acres) to facilitate the subdivision. Broad agricultural uses are permitted in the A2 zone, and a large portion of North Cowichan's A2-zoned land base is located within both the agriculture land designation and the ALR. Staff have received an opinion from a regional ALC planner that the preferred timing of applications is for subdivision to be considered by the ALC first. If a proposal were not approved, it would save the property owner from undertaking a lengthy and potentially costly zoning amendment for no reason. The above reference to existing policies being supportive of a zoning amendment notwithstanding, Council considering the merits of this subdivision as part of the ALC referral process should not be construed as a fettering of its discretion with respect to future approvals.

### ANALYSIS

Council has been asked to provide a resolution to determine whether the application for subdivision of 7088 and 7136 Richards Trail should be forwarded to the ALC for consideration. Part of its decision-making includes a determination of whether the proposal and its intended outcomes are aligned with the OCP's objectives and policies for Agriculture, Forestry and Conservation lands, and agriculture within North Cowichan more broadly.

As outlined in its ALC application, Promise Valley Farm and Creamery is the first and only organic dairy farm on Vancouver Island. The owners undertook a three-year process to obtain their organic certification, which meant eliminating any synthetic fertilizers, chemical pesticides, or herbicides. The forage and grains (hay) grown on-site and fed to the cattle must also be certified organic.<sup>1</sup> Thus, their operations promote continued agricultural use of the lands and result in environmental revitalization of the lands on both 7088 and 7136 Richards Trail. As a growing local food production business in the Cowichan Valley, it has the capacity to support the local agricultural community while serving as an example of a viable business model providing meaningful employment. Permitting the dairy farm to incorporate its leased pasture and hay lands into its property boundaries would enable the protection of these agricultural lands that have not been otherwise used by the owners of 7136 Richards Trail for farming purposes.

<sup>1</sup> Government of Canada, Canadian General Standards Board (CGSB) *Organic Production Systems: General Principles and Management Standards* (2021)

The acquisition of these lands would also support the long-term viability of Promise Valley Farm and Creamery as proximal land for grazing is key to maintaining its organic certifications, and ownership over the lands eliminates the uncertainty associated with a land lease. The subdivision proposal does not result in a net loss of any ALR lands. It is seen as having a net benefit to agriculture in the region, as it would provide the applicants with ownership over the grazing and hay production lands that are integral to their ongoing operations and organic certification. No new standalone parcels would be created that would have increased residential development potential, thereby decreasing the amount of land available for agricultural uses.

The capability of lands to support agricultural use is measured based on the province's Land Capability Classification for Agriculture manual, whereby a combined 'class' and 'subclass' provide information about the degree and kind of limitations a property may have.<sup>2</sup> The Improved Soil Class Ratings mapping for both properties (Attachment 6) reflect Class 4, 5, and 7 ratings with various subclasses depending on localized soil quality. These classifications correspond with the province's Agricultural Capability mapping (Attachment 7) accessed on its Soil Information Finder Tool (SILT). A description of these agricultural capability classifications and soil subclasses is provided below:

<b>Agricultural Capability Classification<sup>3</sup></b>	<b>Description</b>
Class 4	Land in this class has limitations that require special management practises of severely restrict the range of crops, or both.
Class 5	Land in this class has limitations that restrict its capability to producing perennial forage crops or other specially adapted crops.
Class 7	Land in this class has no capability for arable or sustained natural grazing.

<b>Soil Rating Subclass</b>
A – Soil Moisture Deficiency
T – Topography
W – Excess Water

The existing use of the two properties for herd pasture and the growing of forage crops are agricultural uses in alignment with the lands' corresponding soil class and capabilities. Following subdivision, 7136 Richards Trail would still measure almost 15 acres, with modest slope and drainage that would allow this property's owners to establish their own agricultural uses on this property autonomous from the adjacent dairy farm. Agricultural uses that do not require overly arable land (cattle grazing, forage crops, greenhouse crops, grapes, and tree fruits, for example) could see these Class 4 and 5 lands put to standalone farm use.<sup>4</sup>

<sup>2</sup> BC Ministry of Environment, *Land Capability Classification for Agriculture in BC* (1983)

<sup>3</sup> Agricultural Land Commission, *Agricultural Capability Classification in BC* (2013)

<sup>4</sup> BC Ministry of Agriculture, *The Potential of Marginal Agricultural Lands* (1978)

Given that the farmlands on 7136 Richards Trail have either been wholly unused or are certified organic as a result of Promise Valley Farm and Creamery's revitalization, they could hold additional potential to support organic operations for which some of the work associated with achieving certification has already been done.

## CONCLUSION

The application is largely supported by the OCP and the North Cowichan Strategic Agricultural Plan in that it proposes no decrease in the amount or agricultural potential of the land, nor does it propose to create new lots that could increase its non-agricultural development potential. The boundary adjustment proposed by the applicant results only in a tenure change over the lands from lease to ownership, which would have no appreciable effect on adjacent properties while giving a thriving local farm the ability to maintain the security of its future operations. Staff recommend that Council resolve to forward this application to the ALC with a recommendation that the application be approved, on the understanding that this Council would, should the ALC grant approval, then consider a separate zoning amendment application for 7136 Richards Trail to facilitate the subdivision proposal.

## OPTIONS

1. **(Recommended Option)** THAT Council authorize Agricultural Land Commission (ALC) application ID 102118 for subdivision of 7088 and 7136 Richards Trail, to be forwarded to the ALC with a recommendation that it be approved.
  - This approach would move the process forward with the least delay in achieving an ALC decision on the application while not committing Council absolutely given that a zoning amendment would still be necessary due to the worsening of the non-conforming A1 zone lot size.
2. THAT Council refer Agricultural Land Commission application ID 102118 for subdivision of 7088 and 7136 Richards Trail to the North Cowichan's Agricultural Advisory Committee for review and recommendation prior to Council's consideration of this application.
  - The Agricultural Advisory Committee's duties include advising Council on land use applications that may impact agricultural land. Council would choose this option should it determine that an application such as this falls within the purview of the Agricultural Advisory Committee and that it requires the Committee's comments first prior to considering a resolution.
3. THAT Council not authorize Agricultural Land Commission (ALC) application ID 102118 for subdivision of 7088 and 7136 Richards Trail to be forwarded to the ALC for its decision.
  - Should Council determine that the OCP policy language regarding agricultural land broadly and subdivision of agricultural lands specifically does not lend itself to support this application, it may choose to not authorize it to be forwarded to the ALC.

**IMPLICATIONS**

Providing a resolution to forward the application to the ALC (Option 1) will complete North Cowichan’s obligations under this process and permit the ALC to consider the applicant’s subdivision application against the Act, its Regulations, relevant policies, and bulletins. Should the ALC approve the subdivision proposal, the applicant would then need to apply for a zoning amendment of 7136 Richards Trail to facilitate the smaller lot area resulting from the subdivision. A zoning amendment would be necessary prior to subdivision.

Deferring a decision on the application until after a recommendation from the Agricultural Advisory Committee (Option 2) would delay Council’s decision regarding support or denial, as the next meeting of the Committee is scheduled for January 21, 2025. All other associated implications would be directly related to said support or denial.

Denial of the application by Council (Option 3) would mean the application would be terminated and not forwarded to the ALC for consideration, and subdivision would not be permitted. There would then be no reason for the owner of 7136 Richards Trail to pursue zoning amendment.

There are no financial implications to North Cowichan associated with any of the three options as presented.

**RECOMMENDATION**

THAT Council authorize Agricultural Land Commission (ALC) application ID 102118 for subdivision of 7088 and 7136 Richards Trail, to be forwarded to the ALC with a recommendation that it be approved.

Report prepared by:



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Rachel Pukesh, CPT  
Subdivision and Development Coordinator

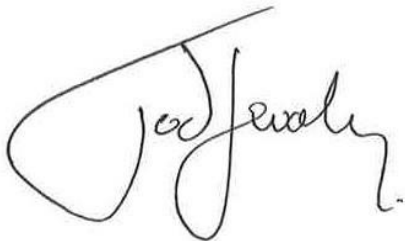
Report reviewed by:



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David Conway, P.Eng.  
Director, Subdivision and Environmental Services

**Approved to be forwarded to Council:**



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Ted Swabey  
Chief Administrative Officer

Attachments:

- (1) Location Map
- (2) Orthophoto Map
- (3) Zoning Context Map
- (4) Subdivision Proposal Sketch Plan
- (5) ALC Application Package
- (6) Improved Soil Class Ratings Map
- (7) Agricultural Capability Class Rating Map