



Staff Report to Council

DATE: Monday, July 18, 2022

DEPARTMENT: Planning

APPLICATION NO.: ALR21-0001

SUBJECT: Application to subdivide land in the Agricultural Land Reserve with respect to the property at 3649 Happy Valley Rd

PURPOSE:

Christina Willing has applied to subdivide her property located at 3649 Happy Valley Rd, which is located within the Agricultural Land Reserve (ALR).

BACKGROUND:

In accordance with the regulations of the Agricultural Land Commission (ALC), a property located within the ALR must not be subdivided without approval of the ALC; however, this type of application must first be reviewed by the local government. The local government must pass a resolution with respect to the application and choose whether the application should proceed to the ALC for their final decision.

If the application is sent to the ALC and they opt to approve it, this approval does not constitute final approval of the subdivision plan. The ALC's approval allows the City's Approving Officer to proceed with consideration of the subdivision plan, which also includes a review of the plan for compliance with the City's Bylaws as well as provincial legislation including the *Land Title Act*.

As this is an application to subdivide land within the ALR, not an ALR Exclusion application, both lots would remain in the ALR and subject to the ALC's regulations of use if approved. Council and the ALC will have to determine whether subdivision in this instance would serve to support or erode agricultural capacity within Langford.

Table 1: Site Data

<i>Applicant</i>	Christina Willing
<i>Owner</i>	Christina Willing
<i>Civic Addresses</i>	3649 Happy Valley
<i>Legal Descriptions</i>	PARCEL C (DD 79795I) SECTION 81, METCHOSIN DISTRICT, EXCEPT PART IN PLAN 8187, 51070, VIP65048 AND VIP88926
<i>Size of Properties</i>	3.98 ha (9.83 acres)
<i>DP Areas</i>	Riparian, Potential Habitat and Biodiversity, 200-year Floodplain
<i>Zoning Designation</i>	AG1 (Agriculture 1)
<i>OCP Designation</i>	Agricultural

SITE AND SURROUNDING AREA

The property is slightly less than 10 acres and contains an existing dwelling, accessory buildings, agricultural fields, several treed areas and a segment of Bilston Creek. The property has been used for agricultural purposes, most recently for growing hay and flowers.

Figure 1 – Orthophoto Map



The property is situated on the south/east side of Happy Valley Rd, and is surrounded by agricultural and large rural residential properties to the north, Willing Park to the east, AT Gordon Park and residential uses in the Valley View development to the south as well as residential uses and a group daycare to the west across Happy Valley Rd.

The property is within the Potential Habitat and Biodiversity, Riparian and 200-Yr Floodplain Development Permit Areas designated by Official Community Plan Bylaw No. 1200.

Table 2: Surrounding Land Uses

	<i>Zoning</i>	<i>Use</i>
<i>North</i>	AG1 (Agriculture 1)	Agricultural/Rural Residential
<i>East</i>	P2 (Community Institutional)	Willing Park
<i>South</i>	CD8 (Valley View)	Residential Townhouses AT Gordon Park
<i>West</i>	RR2 (Rural Residential 2) RR3 (Rural Residential 3) RR5 (Rural Residential 5) R2 (One- and Two-Family Residential) C1 (Neighbourhood Commercial)	Residential Group daycare

COMMENTARY:

The applicant wishes to subdivide off the south-eastern portion of the property, that being the portion south of Bilston Creek. While a subdivision plan has not yet been prepared, the applicant estimates that the new lot would be approximately 1.2 ha (3 ac) and the remainder lot containing the dwelling, fields and related accessory uses would be approximately 2.6 ha (6.4 ac). The proposal is illustrated in Figure 3 below. The proposed lot is located in an area that is currently treed and is not used as part of the farming operation.

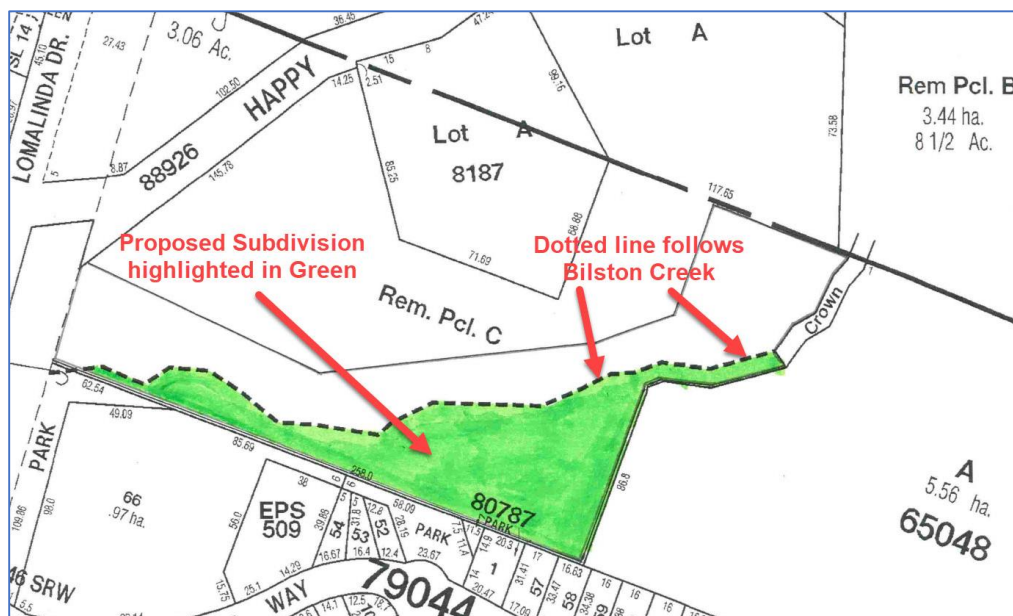
As noted above, the property is within multiple designated Development Permit Areas, and if this application proceeds, a DP must be issued prior to subdivision approval or the commencement of any works, whichever is first. It is likely that much of the proposed new lot will be encumbered by the Streamside Protection and Enhancement Area that must be designated in accordance with the Riparian Development Permit Area and the provincial Riparian Areas Protection Regulation, and as such would be designated as a non-disturbance area. The extent of the 200-Yr Floodplain (blue) and Riparian (green)

DP areas are shown in Figure 2 below. The Potential Habitat and Biodiversity DP Area applies to the entire property.

Figure 2 – Development Permit Areas



Figure 3 – Proposed Subdivision



At this time, the proposed new lot does not have legal road frontage. Pursuant to the *Land Title Act*, all lots within a plan of subdivision must have sufficient road frontage to provide necessary and reasonable access to the lot or an alternative form of access that is prescribed in the *Act* and approved by the Approving Officer. While there is an existing Statutory Right of Way (SRW) over the properties addressed as 982 and 980 Wild Ridge Way that would give access to this portion of the property from Wild Ridge Way, an SRW is not an alternative form of access that is permitted pursuant to the Land Title Act Regulation for subdivision purposes.

Due to this, the current proposal is not feasible as it does not provide direct road access nor an approvable alternative form of access to a public road, such as an easement. In order to provide access between the new lot and Happy Valley Road within the subject property, a fairly long driveway and bridge to cross Bilston Creek would be required, which may be cost prohibitive. Alternately, the applicant may be able to negotiate the registration of an easement that meets the access route requirements of Building Bylaw No. 1160 (i.e. 6m width among other requirements) and the legal requirements of the *Land Title Act* over one or more the adjoining properties.

Similarly, the installation of services, including water and sewer, must be provided to each lot in accordance with Bylaw No. 1000 prior to subdivision registration. The registered SRW noted above does not allow for the installation of these services, and as such a servicing route must also be identified and secured before registration of the subdivision can be considered.

Council may wish to note that this proposed subdivision does not comply with the minimum lot size requirements of the AG1 Zone. Therefore, in the event that this application is forwarded to the ALC for a final decision, and they opt to approve it, the applicant would still be required to obtain Council's approval for a text amendment to the Zone prior to final subdivision approval.

If Council supports this proposal, they may wish to require that the applicant provide an updated plan that provides a legally secured road access and feasible servicing corridor to the satisfaction of the Director of Engineering and the Approving Officer prior to forwarding this application to the ALC for their decision. This would provide a higher level of comfort that these requirements of subdivision can be achieved and give the ALC the opportunity to review any proposed access or utility corridors.

Conversely, if Council does not support this application to subdivide within the ALR, they may, pursuant to the *ALC Act*, reject the application and choose not to forward the application to the ALC.

FINANCIAL IMPLICATIONS:

The subject property is currently classified as a farm for taxation purposes, which has a much lower valuation and taxation rate than a property in the ALR that is not classified as a farm. If the subject property is subdivided into two lots, it's likely that the new lot would *not* be classified as farm and would therefore be subject to a higher assessed value and a higher rate of taxation.

As noted, if this application to the ALC is successful, the applicant would need to submit a text amendment rezoning application, a development permit application, and an application to subdivide the land into two lots. Amenity contributions as per Council's Affordable Housing and Amenity Contribution Policy and Development Cost Charges would be calculated as part of those applications and payable prior to subdivision approval

OPTIONS:

Option 1

THAT Council:

1. Support application ALR21-0001 to subdivide the property at 3649 Happy Valley Rd within the ALR, subject to further review and approval of the required rezoning application, development permit application and subdivision application and the completion of any specified conditions; and
2. Authorize staff to forward the application to the ALC upon receipt of a revised plan that includes a viable proposal to provide legal access and servicing to the new lot either through the subject property from Happy Valley Rd or via registered easement through an adjoining property to the satisfaction of the Director or Engineering and Approving Officer;

OR Option 2

THAT Council

1. Reject application ALR21-0001 to subdivide the property at 3649 Happy Valley Rd within the ALR; and
2. Not authorize staff to forward the application to the ALC;

SUBMITTED BY: Leah Stohmann, MCIP, RPP, Deputy Director of Planning and Subdivision

Concurrence: Donna Petrie, Senior Manager of Business Development and Events

Concurrence: Will Ying-udomrat, Manager of Legislative Services

Concurrence: Matthew Baldwin, MCIP, RPP, Director of Planning and Subdivision

Concurrence: Michelle Mahovlich, P.Eng, P.Geo, Director of Engineering and Public Works

Concurrence: Michael Dillabaugh, CPA, CA, Director of Finance

Concurrence: Marie Watmough, Acting Director of Corporate Services

Concurrence: Darren Kiedyk, Chief Administrative Officer