



Staff Report
Application # J – 37639
Applicant: Island Ice Ltd.

DATE RECEIVED: August 27, 2007

DATE PREPARED: September 26, 2007

TO: Chair and Commissioners – Island Panel

FROM: Simone Rivers, Land Use Planner

PROPOSAL: To subdivide the 12.7 ha parcel on Westcott Road where the existing commercial ice business is located. The applicant wishes to subdivide the ice business 4.3 ha from the original farm property and sell the balance 8.4 ha back to the original owner.

This application is made pursuant to section - 21(2) of the *Agricultural Land Commission Act*.

BACKGROUND INFORMATION:

The property contains an ice making business that was started by the previous owners of the property and then sold to the current owners. This business has not received any approvals from the Local Government, although they have not taken any bylaw enforcement action against them. The purchasers of the Ice business wish to sell the land that is surplus to their needs back to the original owners who will use the property for a hobby farm.

Local Government:

The Corporation of the District of North Cowichan

Legal Description of Property:

PID: 002-312-603
Lot 1, Section 6 & 7, Range 6, Somenos District, Plan 23320, EXCEPT Those parts in Plans 42953 and 48718

Purchase Date:

November 2006

Location of Property:

6822 Westcott Road, Duncan

Size of Property:

12.7 ha (The entire property is in the ALR).

Present use of the Property:

Residential, hobby farm, nursery seedling storage, food manufacturing, five warehouse buildings, one home and stable

Surrounding Land Uses:

WEST: Residential
SOUTH: Residential
EAST: Residential
NORTH: Residential

Agricultural Capability:

Data Source: Agricultural Capability Map # 92B.082(digital)
The majority of the property is identified as having Secondary ratings.

Official Community Plan and Designation:

OCP: N/A
Designation: Rural

Zoning Bylaw and Designation:

Zoning: N/A
Designation: Agricultural Zone A1
Minimum Lot Size: 12 ha

PREVIOUS APPLICATIONS:

Application #22441-0

Applicant: Blasko's Egg Farm Ltd.
Decision Date: October 19, 1988
Proposal: To subdivide an 0.8 ha lot in order for the applicant to have a residences closer to egg operation as the current residence is 10 km away.
Decision: The application was allowed.
Note: This application created the subject property.

RELEVANT APPLICATIONS:

Application #32400-0

Applicant: Smith, Michael & Margaret
Decision Date: February 17, 1999
Proposal: To subdivide along a steep hillside in the property to create two lots of approximately 3.8 ha and 3.4 ha. The purpose of the subdivision is to provide a lot for the applicant's son to build a home.
Decision: Refused on the basis that the property is suitable for a wide range of agricultural activities and that subdivision would reduce the range of potential agricultural options available to the property.

Discussion

The Commission discussed the operation of the ice plant and its status as a non-conforming use within the ALR. The Commission noted that the existing ice operation was not the original use intended on the property, but rather resulted from a need to provide ice for the original egg operation. As the operation evolved, the egg operation was reduced and eventually eliminated while the ice operation continued. As it evolved into a non-farm use on ALR land, it is the Commission's understanding that no action was taken by any regulatory agencies to challenge the non-farm use, and in fact business licenses were issued on a regular basis.

Therefore, the Commission believed that the ice plant has become an entrenched activity within the ALR and that the portion of the property currently used for the ice plant has been rendered unsuitable for agriculture and is unlikely to be used for agriculture in the future. The Commission believed that subdividing the existing business development from the remainder of the property would minimize any negative impact of the business on the existing or potential agricultural use of the remainder of the property or surrounding lands.

However, the Commission believed that the remainder of the property should be left as large as possible to keep the majority of the agricultural land intact on one property. As such, it was prepared to allow a subdivision, provided that the new lot is limited to the area of the processing plant and existing barns, of approximately 2.0 ha.

The Commission appreciated the comments from the Regional District and Advisory Committees, and while it recognized their concerns, it believed that a smaller subdivision around the existing ice plant would not negatively impact the remainder of the property or the surrounding properties for agriculture.

IT WAS

MOVED BY: Commissioner Rugg
SECONDED BY: Commissioner Craven

THAT the application be refused as proposed;

AND THAT a) the existing ice plant be approved as a non-farm use within the ALR, b) an alternative subdivision of 2.0 ha be approved.

AND THAT the approval is subject to the following conditions:

- the subdivision be in substantial compliance with the attached plan.
- the construction of a fence on the western and southern edges of the 2.0 ha lot.
- the subdivision must be completed within three (3) years from the date of this decision.

This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

CARRIED
Resolution # 555/2007

Application #13630-0

Applicant: Roberts, Rene C.
Decision Date: December 15, 1981
Proposal: To subdivide approximately 2.3 ha along the steep hillside to create a new lot for resale.
Decision: Refused on the grounds that the property is suitable for a wide range of agricultural activities and that subdivision would reduce the range of potential agricultural options available to the property.

Application #36533-0

Applicant: McAlister, Hylton
Decision Date: April 19, 2006
Proposal: The applicants are proposing two options for subdivision;
Option 1: To subdivide off an existing cabin and surrounding garden, of approximately 0.2 ha.
Option 2: To subdivide off the newer home and surrounding garden, of approximately 0.8 ha.
Decision: Refused both options for subdivision as the Commission did not wish to create a residential lot on land that was felt to have good agricultural potential.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

Municipality of North Cowichan: It was moved, seconded and carried that Council forward the application to the ALC and authorize the ALC to make a decision.

Technical Planning Committee: That Council forward the application to the ALC without recommendation

Agricultural Advisory Committee: The AAC recommended that the application be denied and not forwarded to the Commission.


STAFF COMMENTS:

Staff recommend a site visit to discuss the proposal with the applicants and to evaluate the impact subdivision would have on the future agricultural capability of the property.

ATTACHMENTS:

- Letter from the applicant describing the proposal
- Letters from the former owners in support of the proposal
- Petition in support of subdivision proposal, signed by local residents.
- Sketch of proposed subdivision (submitted by the applicants)
- Report to the Technical Planning Committee dated July 17, 2007 from Chris Hall, Director of Planning, Cowichan Valley Regional District
- Minutes of the Technical Planning Committee - July 24, 2007
- Minutes of the Agricultural Advisory Committee 0 July 10, 2007
- Airphoto showing proposed subdivision (submitted by the Cowichan Valley Regional District)
- ALC Context Map - 1:20,000 - 92B.082 (created by ALC Staff)
- Airphoto 1:10,000 (created by ALC Staff)

END OF REPORT


Signature


Date