



# STAFF REPORT TO COMMITTEE

**DATE OF REPORT** May 16, 2024  
**MEETING TYPE & DATE** Electoral Area Services Committee Meeting of June 5, 2024  
**FROM:** Development Services Division  
Land Use Services Department  
**SUBJECT:** Application No. RZ24E01 (3725 Glenora Road/PID: 004-928-105)  
**FILE:** RZ24E01

## **PURPOSE/INTRODUCTION**

The purpose of this report is to present an application to rezone the property located at 3725 Glenora Road (PID: 004-928-105) from P-1 (Parks and Institutional) to A-1 (Primary Agriculture) in the Cowichan Valley Regional District Electoral Area E – Cowichan Station/Sahtlam/Glenora Zoning Bylaw No. 1840.

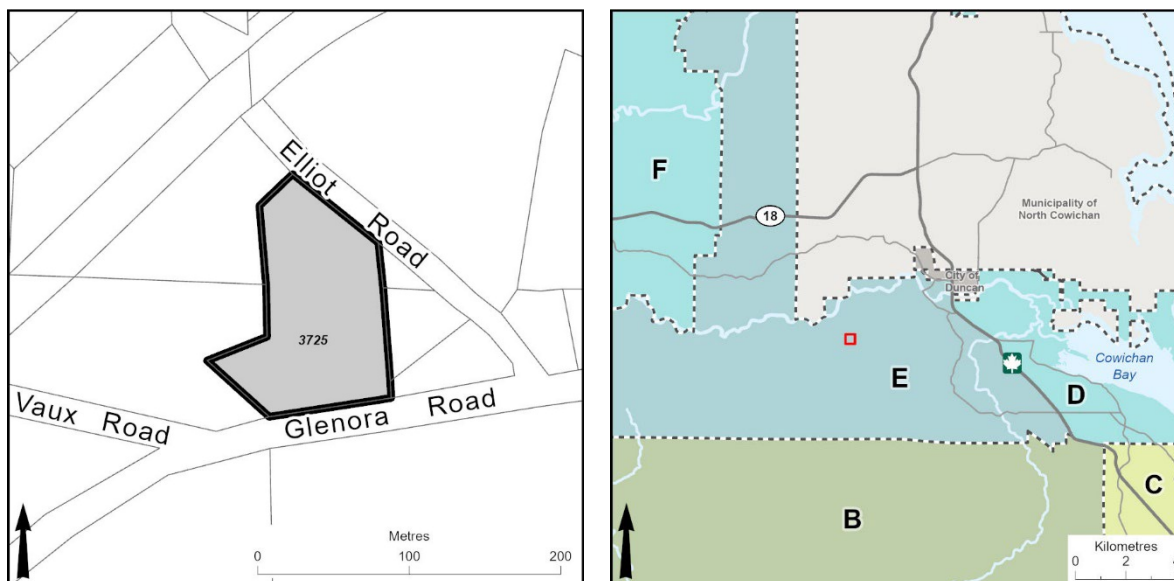
If the zoning amendment is approved, the agent has indicated that they wish to establish a residence on the lands and pursue a boundary adjustment with a neighboring property.

## **RECOMMENDED RESOLUTION**

That it be recommended to the Board:

1. That Application No. RZ24E01 (3725 Glenora Road, PID: 004-928-105), to rezone the subject property from P-1 Parks and Institutional to A-1 Primary Agriculture, be referred to the following external agencies and First Nations:
  - a. Ministry of Transportation & Infrastructure;
  - b. Ministry of Land, Water, and Resource Stewardship:
    - i. Water authorizations (water licensing);
    - ii. Ecosystems (Water Sustainability Act); and
    - iii. Fish Habitat (RAPR).
  - c. Ministry of Agriculture;
  - d. Agricultural Land Commission;
  - e. BC Hydro;
  - f. Electoral Area E – Advisory Planning Commission;
  - g. Cowichan Tribes;
  - h. Lyackson First Nation;
  - i. Penelakut Tribe;
  - j. Halalt First Nation;
  - k. Tsu'uubaa-asatx First Nation; and
  - l. Stz'uminus First Nation.
2. That a public hearing not be held for Application No. RZ24E01 (3725 Glenora Road, PID: 004-928-105), and that notice be undertaken in accordance with the *Local Government Act*.

### **LOCATION MAP**



### **BACKGROUND**

The subject property is zoned P-1 (Parks and Institutional) due to its historic use as the Glenora Elementary School. Despite the P-1 Zoning, the OCP designation remains “Renewable Resource – Agriculture”. The subject property is also within the Agricultural Land Reserve (ALR) which prioritizes farm uses.

The ALC approved an application in 1974 to allow for a school buildings and facilities associated with the Glenora Elementary School. ALC Staff advise that Section 23(a.1) *ALC Act* is applicable to the subject property; therefore, the school cannot be re-established as a lawfully non-conforming use because it has been discontinued for a period greater than 6 months.

The agent has indicated that they wish to establish a residence on the lands; however, the CVRD zoning does not permit a residence unless it is accessory to a parks or institutional use (such as the former Glenora Elementary School). In order to establish a school or similar institutional use – the owner would be required to submit a new ‘non-farm use’ application for review. Approval is not guaranteed.

If the rezoning application is approved the applicant also intends to undertake a property boundary adjustment (as they own an adjacent parcel on Vaux Rd). It is preferable to complete the boundary adjustment after rezoning so that no split zoned parcels are created.

### **OFFICIAL COMMUNITY PLAN / POLICY CONSIDERATIONS**

#### *Official Community Plan for the Electoral Areas Bylaw No. 4270 (HOCP):*

The land is designated “Renewable Resource – Agriculture” in both the HOCP and Local Area Plan.

A primary goal of this designation is to protect agricultural resource lands and the agricultural industry. The Agriculture designation in the plan is intended to accommodate and recognize the

provincial ALR regulations that permit a variety of farming and non-farming activities, including basic production of agricultural products, value-added production activities and agri-tourism.

The proposed A-1 (Primary Agriculture) zone is consistent with the OCP Designation and ALR regulations.

**Development Permit Areas:**

The subject property is currently subject to the following Development Permit Areas (DPA):

- DPA-1 Riparian Protection;
- DPA-2 Sensitive Ecosystem;
- DPA-4 Aquifer Protection;

**Electoral Area E – Cowichan Station/Sahtlam/Glenora Zoning Bylaw No. 1840:**

The subject property is zoned Parks and Institutional ([P-1](#)).

The P-1 Zone restricts the use of the property and does not include ‘agriculture’ as a permitted use; however, Section 5.3 of zoning Bylaw No. 1840 includes a clause which references that the *ALC Act* will take precedence on ALR lands despite zoning restrictions (unless the *Act* allows the CVRD to be more restrictive).

**COMMISSION / AGENCY / DEPARTMENTAL CONSIDERATIONS**

The application was referred to internal divisions, and preliminary comments have been received (Attachment C). No concerns were raised by internal divisions. Environmental Services has advised that if the rezoning proceeds and the lands are operationalized as agriculture, water would be needed for irrigation. This is also true if the lands are operationalized for agriculture under existing zoning.

If the Board advances the application, external agency feedback will be addressed through a subsequent report to the EASC with the accompanying draft Zoning Amendment Bylaw. Changes can be made to the draft Amendment Bylaw prior to 2<sup>nd</sup> reading.

**External Agency Referrals:**

Should the Board choose to proceed with the application, external referrals to the following agencies are recommended:

- |   |  |
|---|--|
| <ul style="list-style-type: none"><li>• Ministry of Transportation &amp; Infrastructure</li><li>• Ministry of Land, Water, and Resource Stewardship:<ul style="list-style-type: none"><li>i. Water authorizations (water licensing);</li><li>ii. Ecosystems (Water Sustainability Act); and</li><li>iii. Fish Habitat (RAPR).</li></ul></li></ul> | <ul style="list-style-type: none"><li>• Agricultural Land Commission</li><li>• First Nations</li><li>• BC Hydro</li><li>• Electoral Area E – Cowichan Station/Sahtlam/Glenora Advisory Planning Commission</li><li>• Ministry of Agriculture</li></ul> |
|---|--|

### **First Nations:**

Nations who may have interests within the area (per the Provincial Consultation Areas Map) include:

- Cowichan Tribes
- Lyackson First Nation
- Penelakut Tribe
- Halalt First Nation
- Tsu'uubaa-asatx First Nation
- Stz'uminus First Nation

### **PLANNING ANALYSIS**

The purpose of rezoning the property from P-1 to A-1 is to permit a residential use. A residential use is only permitted in conjunction with a use in the P-1 Zone; however, the ALR regulations prohibit most of the P-1 uses.

The implication of the existing P-1 Zoning is that residential uses are not permitted unless it is accessory to a Parks or Institutional use. Non-farm uses in the Agricultural Land Reserve are restricted by the [ALR Use Regulation](#); therefore, residential uses are not presently permitted and the lands may only be used for agricultural purposes. This restriction is not the intent of the P-1 Zone.

The lands may only be used for agriculture, and uses that may not be prohibited under the *ALR Use Regulation Act* (e.g. Horse facilities, Forestry, Agri-Tourism, Gathering for an Event, ecological reserve, etc.).

Rezoning of the property would provide consistency with the ALR Regulations, the OCP, and surrounding properties (see maps in Attachment A).

### **OPTIONS**

Option 1 (Advance the application for the subject property):

That it be recommended to the Board:

1. That Application No. RZ24E01 (3725 Glenora Road, PID: 004-928-105), be referred to the following external agencies and First Nations:
  - a. Ministry of Transportation & Infrastructure;
  - b. Ministry of Land, Water, and Resource Stewardship:
    - i. Water authorizations (water licensing);
    - ii. Ecosystems (Water Sustainability Act); and
    - iii. Fish Habitat (RAPR).
  - c. Ministry of Agriculture;
  - d. Agricultural Land Commission;
  - e. BC Hydro;
  - f. Electoral Area E – Advisory Planning Commission;
  - g. Cowichan Tribes;
  - h. Lyackson First Nation;
  - i. Penelakut Tribe;
  - j. Halalt First Nation;
  - k. Tsu'uubaa-asatx First Nation; and
  - l. Stz'uminus First Nation.

2. That a public hearing not be held for Application No. RZ24E01 (3725 Glenora Road, PID: 004-928-105), and that notice be undertaken in accordance with the *Local Government Act*.

Option 2 (Request Additional Information): That it be recommended to the Board that the preliminary staff report for Application No. RZ24E01 (3725 Glenora Road, PID: 004-928-105), be referred back to staff for the following information [*requested information to be provided by the Board*], prior to further consideration.

Option 3 (Deny): That it be recommended to the Board that Application No. RZ24E01 (3725 Glenora Road, PID: 004-928-105), be denied, [*specific reasons to be identified by the Board*].

Prepared by:



Richard Buchan, RPP, MCIP  
Planner III

Reviewed by:



Michelle Pressman, RPP, MCIP, MPlan  
Manager



Ann Kjerulf, MCP, RPP, MCIP  
General Manager

Reviewed for form and content and approved for submission to the Committee:

Resolution:

Corporate Officer

Financial Considerations:

Chief Financial Officer

**ATTACHMENTS:**

Attachment A – Background Table and Maps

Attachment B – Applicant's Rationale

Attachment C – Internal Referral Responses

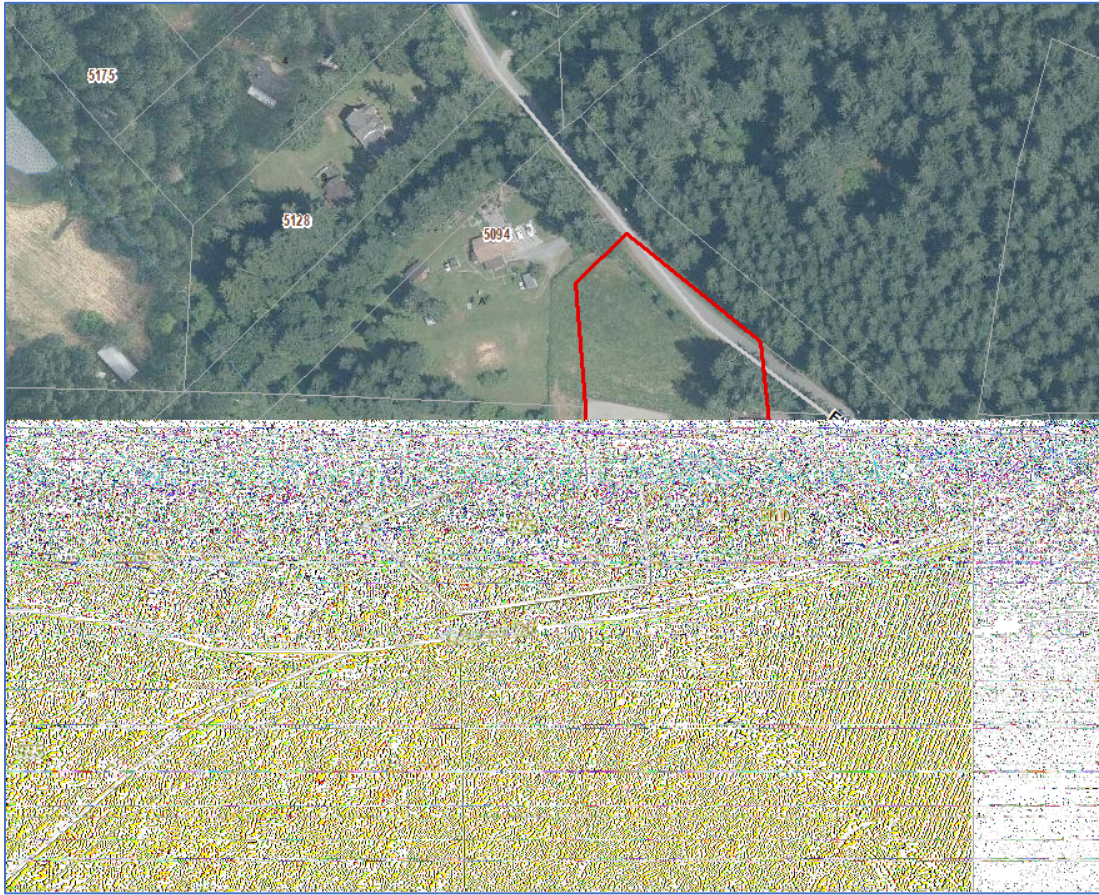
## BACKGROUND TABLE

File: RZ24E01 3725 Glenora Rd

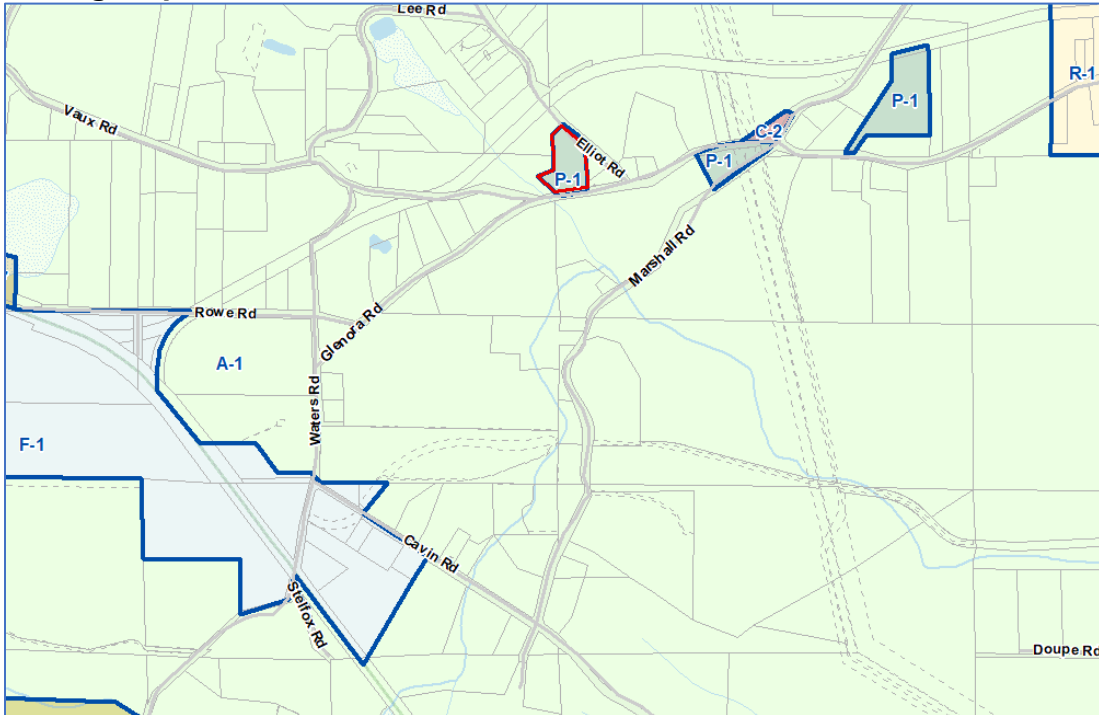
Applicant:	Steven Hilberry
Registered Property Owner:	Steven Hilberry & Meryle Hilberry
Civic Address:	3725 Glenora Rd
PID & Legal Description:	004-928-105 LOT 1, SECTION 11, RANGE 3 AND OF SECTION 10, RANGES 2 AND 3, QUAMICHAN DISTRICT, PLAN 11964
CVRD Covenants on Title:	N/A
Size of Existing Parcel(s):	11,636 m <sup>2</sup> (1.16 ha)
Existing Use of Parcel(s):	N/A
Watershed:	Koksilah River
Natural Hazards:	None mapped
Archaeological Site:	Unknown
Environmentally Sensitive Areas:	Mature Forest
Species at Risk:	Douglas-fir / Dull Oregon-Grape
Agricultural Land Reserve (ALR):	Within ALR
OCP Designation:	Residential
Containment Boundary:	N/A
Development Permit Areas (DPA's):	DPA 1 – Riparian Protection DPA 2 – Sensitive Ecosystem DPA 4 – Aquifer Protection
Zoning:	P-1 (Parks and Institutional)
Fire Service:	Eagle Heights FSA
Existing Water Service:	N/A
Existing Sewerage Service:	N/A
Existing Drainage Service:	N/A



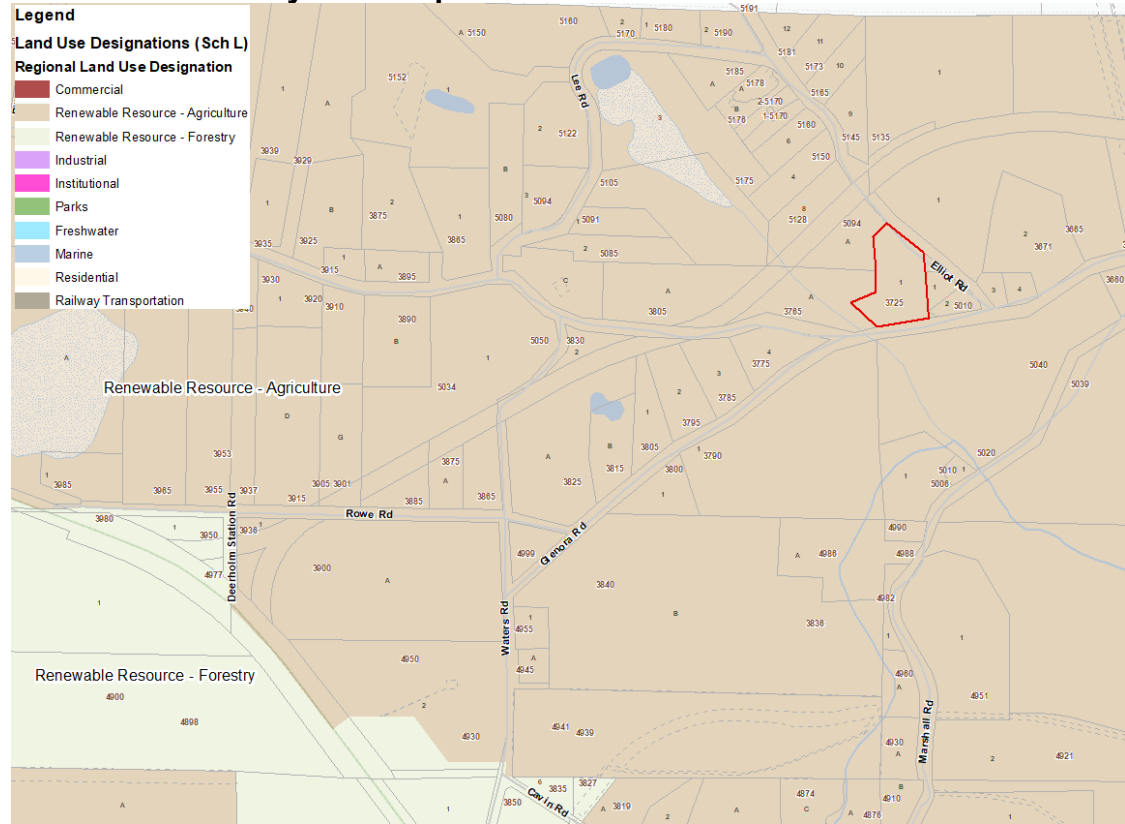
### Subject Property (Aerial)



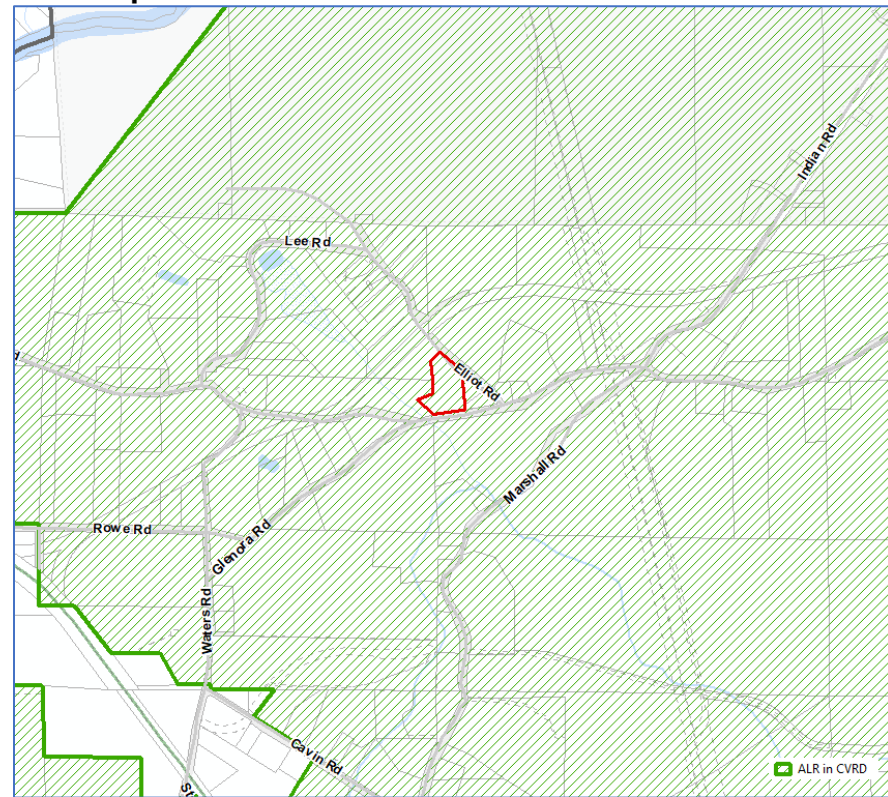
### Zoning Map



# Official Community Plan Map:



# ALR Map





Steve & Meryle Hilberry  
 3765 Vaux Rd, Duncan, BC  
 V9L-6S5  
 PHN 255-2555 (Steve Hilberry Cell)  
 Email: s.hilberry@telus.net

Jan 26, 2024

CVRD Planning Department,  
 Land Use Services,  
 Cowichan Valley Regional District,  
 175 Ingram Street, DUNCAN BC  
 V9L 1N8

**RE: 3725 Glenora Rd\_PID 004-928-105\_rezoning application – P-1 to AL-1 – Statement of Intent.**

**3725 Glenora Rd site map.**



### **Background**

Our personal residential address is 3765 Vaux Rd, Duncan, BC. PID: 025-541-986. We have lived on the property since 1994. The property in question 3725 Glenora Road PID 004-928-105 adjoins our property to the immediate east. 3725 Glenora Rd is the site of the long-abandoned Glenora Elementary School.

When we acquired 3765 Vaux Rd in 1994 we were assured by the property agent representing the sale that the fence line (red dotted line on the map) separating the two properties represented the property line. We also queried the School board. The party we spoke with assured us that that School District always fenced the property lines. This proved incorrect.

The point of the protruding triangle on the map above is centered on a 30 foot deep surface well originally used to provide water to the water tower on the Glenore School site (the water tower is still there). The well is not in use. We will probably fill it in for safety reasons.

Later, we realized that a significant portion of the 3765 Vaux Rod property (triangle the west of the red-dotted line) did not in fact belong to us. We had planted a fruit orchard in that area that was now partially within that triangular area. This was a problem for our plans to grow fruit products.

We then approached the Cowichan Valley School Board regards the Glenora School property status. We were advised to provide a written statement of interest should the property ever come up for sale. We did so. Two years later we were advised the Glenora School property would be coming up for sale and were invited to submit a purchase offer. During the property sale process we were advised the property held municipal P-1 zoning, that the zoning would endure, permitting us to perhaps in the future utilize the property for P-1 uses. We made an offer, our offer was accepted and eventually title was changed to ourselves. Our intention was to apply for a property border adjustment between the two parcels flattening the line to protect our fruit orchard.

As moving the property line stranded the existent surface well, we had a new drilled-well installed farther back within the future borders of 3725 Glenora Rd. We applied for, and received, a water license for that well. The license is in good standing. The new well is superior to the old one.

After a few years we were approached by our local CVRD Director encouraging us to investigate installing a publicly-funded day care facility in the school building. As part of our investigation of this potential we approached the Agricultural Land Commission (ALC) in Vancouver. We were advised that the ALC has a policy of automatically devolving properties that are within the Agriculture Land Reserve (ALR) area to AL-1 if the property in question is not used for the stated zoning purposes after 24 months. We were advised this had occurred for 3725 Glenora Rd. When we asked how P-1 status could be reinstated we were advised we'd have to apply for a new P-1 zoning acceptance by the ALC. We were advised receiving such permission would be an unlikely event.

We interpreted this to mean we held title to a parcel with municipal P-1 zoning that cannot in fact be used for P-1 status buildings or activity, meaning 3725 Glenora Rd was now zoned AL-1. This was also (partially) in error. We never got around to applying for the property adjustment. As we understood both properties now had AL-1 status and as we owned both parcels there seemed little urgency.

This year we decided to apply for the property adjustment. Upon review of our 2024 BC Assessment notice we noted the P-1 Status of the Glenora School Property. We confirmed at the CVRD that the property was in fact still showing on the municipality's maps as P-1. We have been advised by the CVRD planning department that a property line adjustment would be denied as the zoning of the two parcels is not the same.

We are now applying to rezone the Glenora School property from P-1 to AL-1, rendering both parcels with the same zoning status. Our intention is to then to apply for a property line adjustment, accomplishing the above.

**Respectfully,**

Steve & Meryle Hilberry  
3765 Vaux Rd, Duncan BC



COWICHAN VALLEY REGIONAL DISTRICT  
175 Ingram Street, Duncan, B.C. V9L 1N8  
Tel: 250.746.2620 | Fax: 250.746.2621

## REFERRAL RESPONSES

<b>CVRD File No.:</b>	RZ24E01
<b>Application Type:</b>	RZ - Rezoning Application
<b>Subject Property:</b>	3725 Glenora Rd (PID 004-928-105)
<b>Community Planning</b> <i>Mike Tippett</i>	<p>About 20 years ago the matter of closure of public schools became a key concern in Electoral Area E and the RD adopted some policy through OCP Amendment Bylaw 3074 – which I think is not in the HOCP – that discouraged the rezoning of school sites. The root concern was the disposal of what at the time were considered surplus SD79 property and the unfortunate effect this would have on rural communities, for which the local school was much more than a school, but a community asset with social value well beyond education.</p> <p>That policy thread was removed from the HOCP: 4.6.1.3 is the last remaining vestige and it softly encourages the retention of former school sites for “greater community benefit”, but without the expression of aversion to rezoning them from Institutional other uses which would facilitate private use.</p> <p>Considering the above, this Division has no particular concerns about this proposal.</p>
<b>Environment</b> <i>Keith Lawrence</i>	<p>The subject property is located within the Koksilah watershed. Summer flows in the Koksilah River have been exceptionally low in recent years at times when demand for water is the greatest.</p> <p>If the rezoning proceeds and the lands are operationalized as agriculture, water would be needed for irrigation. The water would likely need to be sourced from an aquifer in the Koksilah watershed which has been assessed as hydraulically connected to the Koksilah River and associated sub-tributaries. As such, it is expected that all guidelines for DPA4- Aquifer protection are met. And it is recommended that the proponent contact the province for groundwater licensing.</p> <p>The proponent is adjacent to a tributary stream to Glenora Creek. It is expected that the riparian stream corridor be protected in accordance with DPA1 – Riparian Area Protection.</p> <p>Mature forest is identified in Environmental Sensitive Areas Mapping (2018) as being present on the property. It is expected that this sensitive ecosystem feature is protected in accordance with DPA2 – Sensitive Ecosystem Protection.</p>
<b>Utilities</b> <i>Louise Knodel-Joy / Vanessa Thomson</i>	<p>This property is not within any CVRD water or sewer services areas; therefore, Utilities division has no comments.</p>

<b>Economic Development</b> <i>Beverly Suderman</i>	<i>No comments</i>
<b>Parks and Trails</b> <i>Tanya Schroeter</i>	<i>No comments</i>
<b>Building Inspections</b> <i>Sonny Bryski</i>	Daycare, if permitted, will require a building permit.
<b>Bylaw Enforcement</b> <i>Rob Harris</i>	<i>No Comments</i>
<b>Strategic Initiatives</b> <i>Alison Garnett</i>	<i>No response received</i>
<b>Emergency Management</b> <i>Robb Schoular</i>	<i>No response received</i>