

Reply to Notice of Appeal

Background

1. In September 2023, Sterling Buchanan filed two applications with the Rural Municipality of West River. The first was an application to subdivide PID 818500. The second was an application to rezone PID 818500 from Rural Area (**RA**) to Rural Residential (**RR**).
2. On April 25, 2024, the Municipality adopted a bylaw to amend the Future Land Use Map in the Official Plan. This bylaw rezoned PID 818500 from RA to RR in the Future Land Use Map in the Official Plan.
3. On April 25, 2024, the Municipality also adopted a bylaw to amend its 2022 Land Use Bylaw. This bylaw rezoned PID 818500 from RA to RR in the 2022 Land Use Bylaw.
4. On May 15, 2024, the appellant filed a notice of appeal with the Island Regulatory and Appeals Commission. This notice of appeal indicates that the appellant is appealing from a decision by the Municipality “to rezone PID 818500 from Rural Agriculture [*sic*] to Rural Residential to subdivide the property into 13 residential lots (file No. WR-004)”.

Preliminary Comments on Jurisdiction

5. The Municipality offers two preliminary comments on jurisdiction.
6. First, the notice of appeal does not differentiate between, on the one hand, the decision to amend the Future Land Use Map in the Official Plan, and, on the other, the decision to amend the 2022 Land Use Bylaw. This is significant because the Commission does not, with respect, have jurisdiction to hear an appeal from the decision to amend the Future Land Use Map in the Official Plan. For this reason, the Municipality presumes that the present appeal relates only to the April 25 decision to amend the 2022 Land Use Bylaw.
7. Second, many of the concerns raised in the notice of appeal appear to be premature. The Municipality has decided only to rezone PID 818500. The Municipality has not approved any subdivision of this parcel, and has not granted any permit to construct residential dwellings on this parcel. This is significant because the Commission has jurisdiction only in respect of decisions that have already been made. The Commission does not have jurisdiction to hear an appeal relating to hypothetical future decisions.

Response to Grounds of Appeal

8. The Municipality provides the following preliminary comments in response to the grounds of appeal listed in the notice of appeal.

Loss of agricultural land and availability of other lots

9. The first two grounds of appeal relate to the availability of other lots and to the loss of agricultural land. These grounds of appeal appear to presuppose that, so long as PID 818500 remains zoned Rural Area, it must necessarily be used for agriculture. But that is not the case. Under the 2022 Land Use Bylaw, a parcel zoned RA has many permitted uses, including single-detached dwellings, duplex dwellings, semi-detached dwellings, and commercial uses. In other words, there is no necessary correlation between agricultural use and the current zoning of PID 818500.

Environmental considerations

10. The third ground of appeal raises concerns relating to stormwater, osprey, and septic systems. These concerns appear to relate less to rezoning and more to hypothetical future development. As noted, there has not yet been any decision to issue a development permit to construct residential dwellings on PID 818500.

Iconic view

11. The final ground of appeal raises concerns relating to the loss of a view from the West River Road. Once again, this concern appears to relate less to rezoning and more to hypothetical future development. The rezoning of PID 818500 will not affect the view from the West River Road.

“Urban Sprawl”

12. The notice of appeal concludes by urging the Municipality to prevent “urban sprawl” and to “protect our good agricultural land”. But PID 818500 is not currently zoned as “agricultural land”. The current zoning of PID 818500 is RA, which stands for “Rural Area”, not “Rural Agriculture”. As noted, RA zoning already permits dwellings and commercial uses on PID 818500.

**Rural Municipality of West River
June 12, 2024**