



Agricultural Land Commission
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March 22, 2006

Reply to the attention of Roger Cheetham

Peter Swann
PO Box 1
Coombs, BC V9K 2A3

Dear Sir:

RE: Application #S-36465

PID: 006-699-499

Lot 42, District Lot 81, Newcastle District, Plan 1967, EXCEPT Part in red
on Plan 513 RW

The Provincial Agricultural Land Commission (the "Commission") has now concluded its review of your application to subdivide the subject property to create two lots of approximately 2.8 ha and 5.8 ha. on either side of the legal parcel within which the BC Hydro and Terasen Gas Statutory Rights of Way are located. The application was submitted pursuant to section 21(2) of the *Agricultural Land Commission Act* (the "ALCA").

The Commission wishes to thank Helen MacPhail Sims for taking the time to meet with its representatives on 7th March 2006. The Commission found the meeting and site visit informative. In particular, the Commission noted that the two sections of the property that are proposed to be subdivided are separated from each other by the legal parcel containing the BC Gas and Terasen Gas Statutory Right of Way which bisects the property. The Commission noted through reference to the file maps that this situation also exists over the property to the east. However, further west and east of these properties the utilities are confined to right of ways over properties and are not within separate legal parcels. The Commission also noted that there is a house on each section, one occupied by Mr. Swann, the other by Mr. Coben.

In view of this somewhat unique situation, with the legal parcel containing BC Hydro and Terasen Gas Statutory Rights of Way bisecting the two parcels and preventing direct access between the two sections, the Commission considered that its approval of the two proposed subdivisions would recognise the *de facto* situation and would not have any impact on agriculture.

Accordingly the Commission has approved your application subject to compliance 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. The Commission suggests you contact the Regional District of Nanaimo at your earliest convenience.

The decision noted above is recorded as Resolution # 0072/2006.

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Please send two (2) paper prints of the final survey plans to this office well in advance of commencing registration at the Land Titles Office. When the Commission confirms that the subdivision plan is acceptable and verifies that all conditions of approval have been met it will authorize the Registrar of Land Titles to accept the application for deposit of the plan. Please quote your application number in any future correspondence.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:



Erik Karlsen, Chair

pc: Arthur Coben - 510 Grovehill Road, Qualicum Beach, BC, V9K2A3;
Regional District of Nanaimo - 6635-04-0061
Fern Road Consulting Ltd., Helen MacPhail Sims, Box 405, Qualicum Beach, BC
V9K1S9

RC/lv
36465d1

MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

Minutes of a meeting held by the Provincial Agricultural Land Commission (the "Commission") on 7th March 2006 at Port Alberni, B.C.

PRESENT: Lorne Seitz Chair
David Craven Commissioner
Donald Rugg Commissioner

STAFF: Roger Cheetham, Planning Officer

For Consideration

Roger Cheetham presented the staff report of Ron Wallace dated 27th February 2006 regarding application #S-36465-0.

Site Inspection

A site inspection was conducted on 7th March 2006. Those in attendance were:

- Commissioners Seitz, Craven & Rugg
- Agricultural Land Commission Staff: Roger Cheetham, Planning Officer
- Helen McPhail Sims, Agent for Applicant

The Commission noted that the situation relating to the parcel is somewhat unusual in that it is split into two sections by a separate legal parcel containing the BC Gas and Terasen Gas Statutory Right of Way. The Commission noted through reference to the file maps that this situation also exists over the property to the east. However, further west and east of these properties the utilities are confined to right of ways over properties and are not within separate legal parcels. The Commission also noted that there is a house on each section, one occupied by Mr. Swann, the other by Mr. Coben.

The site inspection lasted from approximately 9:00 a.m. to 9:30 a.m.

Commission Discussion: In view of the somewhat unique situation with the two sections separated from each other by a legal parcel preventing direct access between the two, the Commission considered that its approval of the two proposed subdivisions would recognise the *de facto* situation, would not have any impact on agriculture and could thus be supported.

IT WAS

MOVED BY: Commissioner L. Seitz
SECONDED BY: Commissioner D. Rugg

THAT the staff report be received and the application be approved for the reasons reflected in the discussion.

This approval is subject to compliance with any other enactment, legislation or decision of any agency having jurisdiction.

CARRIED



Staff Report
Application # S – 36465-0
Applicant: Peter Swann

Agent: Helen MacPhail Sims
Fern Road Consulting Ltd.

DATE PREPARED: February 27, 2006

TO: Chair and Commissioners – Island Panel

FROM: Ron Wallace, Regional Research Officer

PROPOSAL: To subdivide the subject property as bisected by the BC Hydro and Terasen Gas Statutory Right of Way. This would result in the creation of two lots of approximately 2.8 ha and 5.8 ha.

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

BACKGROUND INFORMATION:

One of the owners, Peter Swann bought the subject property in 1982. He later sold a 5/24 interest to a friend. This interest was to represent the portion northeast of the Rights of Ways. In 1990, the 5/24 interest was sold again to Mr. and Mrs. Coben.

Since that time, Mrs. Coben has died and in settling the estate, Mr. Coben has discovered that the northeast and southwest portions of Lot 42 are one title and the two owners own the lot as shared interest (5/24 to Mr. Coben and 19/24 to Mr. Swann).

Local Government:

Regional District of Nanaimo

Legal Description of Property:

1. PID: 006-699-499
Lot 42, District Lot 81, Newcastle District, Plan 1967, EXCEPT Part in red on Plan 513 RW;

Purchase Date (m/d/y):

08/26/1990

Location of Property:

The property is located on Grovehill Road, north of Qualicum Beach, Regional District of Nanaimo

Size of Property:

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

Present use of the Property:

There is one house, where Mr. Coben resides, on the portion northeast of the BC Hydro and Terasen Gas Statutory Rights of Way.

The other owner, Mr. Swann resides on the larger portion southeast of the Rights of Ways. The buildings consist of a residence, mobile home, a workshop and small shed.

Surrounding Land Uses:

WEST: Rural use
SOUTH: Rural use
EAST: Rural use
NORTH: Rural use

Agricultural Capability:

Data Source: Agricultural Capability Map # 92F.038
The majority of the property is identified as having Mixed Prime and Secondary ratings.

Official Community Plan and Designation:

The property is designated "Resource Lands within Subdivision District D." of the OCP

Zoning Bylaw and Designation:

Rural 1, 2.0 ha minimum lot size

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

Regional Board

No comment from the Regional Board beyond their standard policy.

Local Government Staff

"Should the ALC approve the subdivision as proposed, the applicants will be required to meet the requirements of subdivision pursuant to the regulations of the RDN, the Ministry of Transportation and any other agency having jurisdiction over the lands.

STAFF COMMENTS:

The proposed subdivision is consistent with the minimum parcel size pursuant to the local zoning. Staff recommends an on site inspection to better determine the impact of the proposed subdivision on agriculture.

END OF REPORT

Signature

Date