



Agricultural Land Commission
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April 26, 2007

Reply to the attention of Jennifer Carson
ALC File: MM-37132

Tom & Maria Matty
29494 Sangara Avenue
Abbotsford, BC
V4X 2G3

Dear Mrs. And Mr. Matty:

Re: Application to Subdivide land in the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 147/2007 outlining the Commission's decision as it relates to the above noted application.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Erik Karlsen, Chair

cc: City of Abbotsford (3040-20/A06-018)

Enclosure: Minutes



A meeting was held by the Provincial Agricultural Land Commission on April 12, 2007 in Abbotsford, B.C.

PRESENT:	Sylvia Pranger	Chair, South Coast Panel
	Michael Bose	Commissioner
	John Tomlinson	Commissioner
	Tony Pellett	Staff
	Jennifer Carson	Staff

For Consideration

Application: # MM- 37132
Applicant: Tom & Maria Matty
Proposal: Subdivision for a Relative. To subdivide the 16 ha for a second dwelling for applicants' children.
Legal: PID: 001-104-195
Lot 2, Section 22, Township 14, New Westminster District, Plan 55894
Location: 29494 Sangara Avenue, Abbotsford

Site Inspection

A site inspection was conducted on April 12, 2007. Those in attendance were:

- Sylvia Pranger Chair, South Coast Panel
- Michael Bose Commissioner
- John Tomlinson Commissioner
- Tony Pellett Staff
- Jennifer Carson Staff
- Maria Matty Applicant

Maria Matty confirmed that the staff report dated February 2, 2007 was received and no errors were identified. The Commissioners and staff met with Mrs. Matty on the subject property. The Commissioners took a quick walk around a portion of the property to take a look at the landscape. In discussing the application, Mrs. Matty handed out a document to all the Commissioners and staff with 18 points that she wished to be considered in the decision making. This document was read over by the Commissioners and staff and taken into consideration. Mrs. Matty requested that the Commission bring personal considerations into their decision making process as it was mentioned as a possibility in a document she found on the ALC website. Mrs. Matty mentioned that she has also spoken to the Land Titles Office about the legal notation not being on the Land Title when they decided to purchase the property, however, she has not yet heard back from them. When asked about her background in farming, Mrs. Matty discussed that her family was previously in the chicken business of which she was a shareholder. The business was run by her brother, however, her children were involved with chores associated with the business. Mrs. Matty also mentioned that she has heard of people in the area unable to farm a similar-sized parcel as it is too large a piece for them to finance. Mrs. Matty told the Commissioners that the main purpose for the application was to allow her daughter's family to build a second home on the property as well. Her son-in-law is in construction and would be building the proposed house. His profession

combined with the comparative cost of bringing in a manufactured home and the aesthetics of a mobile home were presented as the main deterrents from utilizing section 3(1)(b)(ii) of the Agricultural Land Reserve Use, Subdivision and Procedure Regulation. Mrs. Matty also emphasized that if the Commission had another alternative she and her family would be willing to compromise.

Context

The proposal was weighed against the purposes of the Commission as stipulated in section 6 of the *Agricultural Land Commission Act* (the "Act"). They are:

1. to preserve agricultural land
2. to encourage farming on agricultural land in collaboration with other communities of interest, and
3. to encourage local governments, first nations, the government and its agents to enable and accommodate farm use of agricultural land and uses compatible with agriculture in their plans, bylaws and policies.

Discussion

Assessment of Agricultural Capability

In assessing agricultural capability, the Commission refers in part to agricultural capability mapping and ratings. The ratings are interpreted using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system, or the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system.

The improved classifications of the agricultural capability of the soil of the subject property are

- Class 2 – Land in this class has minor limitations that require good ongoing management practices or slightly restrict the range of crops, or both.
- Class 3 – Land in this class has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both.
- Class 5 – Land in this class has limitations that restrict its capability to producing perennial forage crops or other specially adapted crops.

Subclasses

- D undesirable soil structure
- T topography
- W excess water

Assessment of Agricultural Suitability

The Commission assessed whether the external factors such as encroaching non-farm development have caused or will cause the land to become unsuitable for agriculture. The Commission does not believe there are external factors that render the land unsuitable for agricultural use.

Assessment of Impact on Agriculture

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. The Commissioners were concerned that the proposed subdivision would limit the types of agriculture that could be practiced on the property in the future. Another concern was that if this subdivision were permitted it would heighten the expectations of other property owners in the area to be able to do the same. The Commission believes the proposal would impact existing or potential agricultural use of surrounding lands.

Assessment of Other Factors

The Commission feels compassion for Mrs. Matty and her family with regards to all of the emotional circumstances they have had to endure, the health difficulties and being unaware that the property that they purchased was in the ALR. However, the Commission cannot lose sight of its responsibility to preserve agricultural land. The Commission also feels that the main objective of the application, to allow the applicant's daughter's family to move onto the property, can be accomplished in different ways. The possibility of a temporary structure such as a manufactured home is one option, and another option is putting an addition to create a secondary suite onto their current residence. Both of these alternatives are permitted under the *Agricultural Land Reserve Act*.

Conclusions

1. That the land under application has agricultural capability and is appropriately designated as ALR.
2. That the land under application is suitable for agricultural use.
3. That the proposal will impact agriculture.
4. Although the Commission has compassion for the applicant and her family, they are unable to base a decision on compassion alone.
5. That the proposal is inconsistent with the objective of the *Agricultural Land Commission Act* to preserve agricultural land.

IT WAS

MOVED BY: Commissioner Pranger

SECONDED BY: Commissioner Tomlinson

THAT the application be refused.

CARRIED

Resolution # 147/2007



Staff Report
Application # MM – 37132
Applicant: Tom & Maria Matty

DATE RECEIVED: December 18, 2006

DATE PREPARED: February 2, 2007

TO: Chair and Commissioners – South Coast Panel

FROM: Jennifer Carson, Land Use Planner

PROPOSAL: Subdivision for a family member. To subdivide the 16 ha into two 8.0 ha lots for applicants' children. This application is made pursuant to section 21(2) of the *Agricultural Land Commission Act*.

BACKGROUND INFORMATION:

Staff spoke with Maria Matty on March 13, 2007. The applicant wanted to ensure that the Commission was informed about the many aspects of her application. Firstly she mentioned that she contracted Hepatitis C from a blood transfusion in the 1980s. She also spoke about the Commission visit of her previous application proposing two permanent houses on the property. She was unable to be present and therefore her husband, who had been in an accident and received brain damage as a result was not able to answer the questions adequately. Following this, she met with a Commissioner involved in the decision who implied that if the Commission had known about all of the issues faced by the family, the decision might have been different. Upon speaking to the council and the agricultural advisory committee they supported her application on compassionate grounds.

Other issues that Mrs. Matty wished the Commission to be aware of are as follows:

- The City of Abbotsford website said that a minimum of 40 acres is required for subdivision. She has since informed them that she felt this to be misleading and causing her family to purchase a larger piece of land than they might otherwise have.
- The legal land title search did not include the fact that the property is in the ALR. Mrs. Matty has not yet spoken with the Land Titles Office about this, however, has been encouraged to do so.
- Mrs. Matty has indicated that they have a video tape of the Council meeting where they presented if the Commission is interested in seeing it.
- Mrs. Matty and her family would be open to different alternatives preferred by the ALC as she would like her children and grandchildren to move onto the property into their own house so that she can mind the grandchildren, and her children can look after her when she is going through her cancer therapy.
- Mrs. Matty stressed that this is a case of survival for her family as they are working very hard and more than they ought to in order to pay off the property. It is not a case of wanting to have big country estates.
- Due to her condition, moving is an unnecessary stress.

Local Government:

City of Abbotsford

Legal Description of Property:

PID: 001-104-195
Lot 2, Section 22, Township 14, New Westminster District, Plan 55894

Purchase Date:

April 2004

Location of Property:

29494 Sangara Avenue, Abbotsford

Size of Property:

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

Present use of the Property:

Residence, greenhouse, shed and open shed for tractor, hay

Surrounding Land Uses:

WEST: Hobby farms, hay and forest area
SOUTH: Ravine and bush
EAST: Thirteen 3-5 acre strata lots
NORTH: Nursery, chickens and barn

Agricultural Capability:

Data Source: Agricultural Capability Map # 92G/1
The majority of the property is identified as having Prime Dominant ratings.

Official Community Plan and Designation:

OCP: N/A
Designation: Agricultural

Zoning Bylaw and Designation:

Zoning: N/A
Designation: Agricultural One Zone (A1)
Minimum Lot Size: 8 ha

PREVIOUS APPLICATIONS:

Application #04584-0

Applicant: Notenbomer, J&G
Decision Date: September 14, 1978
Proposal: Subdivision of a 32 ha property into four (4) 4.0 ha lots.
Decision: Refused as proposed. However, the Commission did allow two (2) lots of 16 ha each to be created.

Application #04589-0

Applicant: Notenbomer, J&G
Decision Date: September 14, 1978
Proposal: Subdivision of a 16 ha property into four (4) 2.0 ha lots.
Decision: Refused on the grounds that the land has potential for agricultural use and should be retained in parcels of a size whereby the potential can be realized. Also, such a subdivision would produce pressures for other similar subdivisions in the area which could destroy the rural and agricultural character of the area.

Application #16069-0

Applicant: Ackerman/Laird,
Decision Date: May 11, 1983
Proposal: Subdivision of a 16 ha property into four (4) 2.0 ha lots.
Decision: Refused on the grounds that the Commission wishes to maintain maximum agricultural options for the property, including both soil and non-soil bound uses. Subdivision would alienate the property from these options and prove to be detrimental to the entire agricultural community.

Application #35957-0

Applicant: Matty, Tom & Maria
Decision Date: June 23, 2005
Proposal: To construct a second permanent dwelling on the subject 16 ha property for a family member. Also to allow for the importation of fill material for site preparation and driveway maintenance.
Decision: Refused. While the Commission appreciates the family circumstances which have led to the application, the Commission is concerned that allowance of a second permanent dwelling on the property would not be in the best interests of agriculture.

Application #35957-1

Applicant: Matty, Tom & Maria
Decision Date: September 15, 2005
Proposal: Reconsideration for a second permanent dwelling for a family member.
Decision: Refused.

RELEVANT APPLICATIONS:

Application #30860-0

Applicant: Warmerdam, Johannes & Sheila
Decision Date: October 09, 1996
Proposal: The applicants are seeking permission to retain a double-wide mobile home on the subject property as a second dwelling.
Decision: Approved with conditions.

Application #33617-0

Applicant: Alderglen Farms Ltd
Decision Date: June 28, 2001
Proposal: To compost off farm agricultural waste on approximately up to approximately 1.0 hectares of the property.
Decision: Approved on a temporary five year trial basis, subject to annual reporting, and regular inspections by the Commission's Staff Agrologist.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

City of Abbotsford Council forwarded the application to the Agricultural Land Commission for consideration under compassionate grounds.

STAFF COMMENTS:

It is recommended that the Commission consider the following:

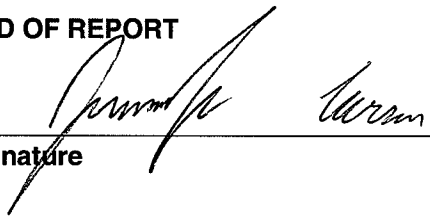
- Two previous applications on this property by previous owners asked for subdivision of the property into four (4) 2.0 ha lots and were refused.
- Another previous application by the current owner to build another home was refused by the Commission.
- The land on the subject property has been rated as prime agricultural land (Class 2 and Class 3).
- The applicants state they were unaware of the ALR status of the property when they bought it as there is no legal notation of this on the legal title. This issue can only be resolved with Land Titles Office as Staff has previously advised the applicant.
- Under the *Agriculture Land Commission Act* the property owners are permitted a mobile home for immediate family.

ATTACHMENTS:

1. Base Map
2. Constituent Map
3. Aerial Photograph
4. Soil Capability Map
5. Letter from applicants
6. Sketch of proposed subdivision

END OF REPORT

Signature



Date

March 28, 2007