



Agricultural Land Commission
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November 5, 2009

Reply to the attention of Gordon Bednard
ALC File: 39042 (ID#46028)

Ron and Gail Pitcher
1885 Wilmot Road
Cowichan Bay, BC V0R 1N1

Dear Sir and Madam:

Re: Application to Subdivide land in the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 1265/2009 outlining the Commission's decision as it relates to the above noted application.

The Commission has noted that there is no record of any approval granted by the Commission for the two dwellings on the eastern side of the creek. Unless you are able to provide evidence to the Commission that these dwellings either pre-existed the ALR, or were approved by the Regional District as farm buildings, the mobile home must be removed from the property. Retention of the one permanent dwelling on the east side of the creek as permitted in the Commission resolution, is also subject to the approval of any other agencies with jurisdiction.

You are strongly advised to discuss this matter with the Regional District, and as the property is for sale, to advise any potential purchasers of the content of this correspondence.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to read 'Erik Karlsen', is written over a horizontal line.

Erik Karlsen, Chair

Enclosure: Minutes

cc: Cowichan Valley Regional District Attn: Rachelle Moreau file # 1-D-09ALR

GB/eg
i/39042-46028d1



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on September 15, 2009 at Langford, BC

| | | |
|-----------------|----------------|---------------------|
| PRESENT: | Lorne Seitz | Chair, Island Panel |
| | Niels Holbek | Commissioner |
| | Jennifer Dyson | Commissioner |
| | Gordon Bednard | Staff |

For Consideration

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|--------------|---|
| Application: | 39042 (New ID # 46028) |
| Applicant: | Ron and Gail Pitcher |
| Agent: | |
| Proposal: | Subdivision along creek into two lots |
| Legal: | Lot B Sections 4 and 5, Range 3, Cowichan District Plan VIP60406 PID 023-008-032 |
| Location: | 1885 Wilmot Road, Cowichan Bay, CVRD |

Site Inspection

A site inspection was conducted on September 14, 2009. Those in attendance were:

- Lorne Seitz Chair, Island Panel
- Niels Holbek Commissioner
- Jennifer Dyson Commissioner
- Gordon Bednard Staff

Attempts were made by staff to contact the Pitchers prior to the date of the onsite inspection, and messages were left advising that the Commission would be visiting the site on September 14. No responses were received, and the applicants did not attend at the property during the onsite.

The Commission noted during the onsite inspection that there are three residential dwellings on the property – one larger home on the western portion, a small permanent residence and a mobile home on the eastern portion. All appeared to be in use as residences at the time of the inspection. There is no record of the Commission approving additional dwellings on the property.

The Commission also noted that the ravine running through the property was a significant barrier to accessing both sides for farming purposes, but that the smaller portion of the lot to the east of the ravine could be used to locate a residence for farm help.

Finally, it appeared that the property was for sale based on the realtor's sign at the property entrance.

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 agricultural capability of the soil of the subject property is
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 7 – Land in this class has no capability for arable or sustained natural grazing

Subclasses

D undesirable soil structure
T topography

Assessment of Agricultural Suitability

The Commission assessed whether 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. It was noted by the Commission that this property is surrounded on 3 sides by larger farmed properties and the Commission would be reluctant to introduce a smaller residential lot adjacent to farm properties.

Assessment of Impact on Agriculture

The Commission considered that the small area to the east of the ravine, while not being large enough or of sufficient agricultural quality to be farmed in itself, was a suitable area for the location of a dwelling for farm help and thus the Commission would not be in favour of the subdivision of the property.

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. That the proposal is inconsistent with the objective of the *Agricultural Land Commission Act* to preserve agricultural land.

IT WAS

MOVED BY: Commissioner Niels Holbek
SECONDED BY: Commissioner Jennifer Dyson

THAT the application be refused as presented, however, the Commission would be willing to allow the retention of the second permanent dwelling on the eastern side of the property for farm use, subject to the removal of the mobile home. Unless the owner can show evidence that that the dwellings either pre-existed the ALR or that the Regional District and other authorities with jurisdiction allowed the two additional dwellings for farm use, the Commission requires the immediate removal of the mobile home.

AND THAT the applicant be advised of the provisions of Section 33 of the *Agricultural Land Commission Act* which provides an applicant with the opportunity to submit a request for reconsideration.

- S.33 (1) *On the written request of a person affected or on the commission's own initiative, the commission may reconsider a decision of the commission under this Act and may confirm, reverse or vary it if the commission determines that*
- (a) evidence not available at the time of the original decision has become available,*
 - (b) all or part of the original decision was based on evidence that was in error or was false.*
- (2) *The commission must give notice of its intention to reconsider a decision under subsection (1) to any person that the commission considers is affected by the reconsideration.*

AND THAT the applicant be advised that a revised proposal does not constitute new information and will not be considered as a basis for reconsideration and the time limit for submitting a request for reconsideration is one (1) year from the date of the decision letter.

This decision does not relieve the owner or occupier of the responsibility to comply with applicable Acts, regulations, bylaws of the local government. This includes zoning, subdivision, or other land use bylaws, and decisions of any authorities that have jurisdiction under an enactment.

CARRIED
Resolution # 1265/2009