



Agricultural Land Commission
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February 2, 2010

Reply to the attention of Ron Wallace
ALC File: O-37443

Hendrik Malenstyn
6556 – 60th Avenue
Delta, BC
V4K 4E2

Dear Sir:

Re: Request for Reconsideration

This is further to your letter of April 30, 2009 in which you asked the Provincial Agricultural Land Commission to reconsider Resolution #378/2007.

The Commission has reconsidered the matter and has attached the Minutes of Resolution # 2146/2009 outlining its latest decision.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

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

Erik Karlsen, Chair

cc: The Corporation of Delta (LU02001)

Enclosure: Minutes



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on December 8, 2009 at the Best Western Regency at 32110 Marshall Road, Abbotsford, BC.

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|-----------------|----------------|--------------------------|
| PRESENT: | Sylvia Pranger | Chair, South Coast Panel |
| | John Tomlinson | Commissioner |
| | Michael Bose | Commissioner |
| | Ron Wallace | Staff |
| | Tony Pellett | Staff |

For Consideration

A letter dated April 30, 2009 from John and Maureen Malenstyn was received requesting that the Commission reconsider its decision recorded as Resolution #378/2007. It indicated that the new Gateway highway is severely impacting the local area including the applicants' land. It was also expressed that other subdivisions under the ALC's homesite severance policy have been recently allowed in Delta. Lastly, the applicant's son (Ken Malenstyn) is in the midst of developing an 18 acre (7.3 ha) cranberry bog on a portion of the Malenstyn farm across the road from his house.

| | |
|--------------------|---|
| Application: | O-37443 |
| Applicant: | Hendrik (John) Malenstyn |
| Original proposal: | The proposal is for the creation of a 0.3 ha parcel for the applicant's son and the remaining 3.1 ha portion of the subject property would continue to be used for farming. |
| Original decision: | Refused as proposed. However, the Commission may be in a position to revisit the matter should the applicant wish to submit a revised proposal that: <ul style="list-style-type: none"> • Creates the smallest lot possible surrounding Ken Malenstyn's home. • Connects Ken Malenstyn's lot to the municipal sewer system • Consolidates the balance of the property with the property immediately adjacent to the west. |
| Current proposal: | To reconsider the proposal to subdivide one lot of approximately 0.3 ha for applicant's son as outlined in the above letter. |
| Legal: | Lot 5, New Westminster District, Except The east 70.41 Feet; Section 12, Township 6, plan 779 |
| Location: | 6620 – 60 th Avenue, Delta |

Context

The proposal was considered under Section 33 of the Agricultural Land Commission Act (the "Act") which states:

- S33(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, or

- (c) a recommendation by a facilitator under section 13 relating to a dispute warrants a reconsideration of the original decision.

The Commission believed that the applicant had provided evidence that was not available at the time of the original decision and so reconsidered the application.

Discussion

Upon review of the new information provided by the applicants, the Commission noted the indicated development of an 18 acre (± 7.3 ha) cranberry bog on a portion of the Malenstyn Farm. The Commission suggested that the application may have more merit if the proposed subdivision has an agricultural component. However, in order to make a final decision on the application the Commission requires the following information:

- Business plan for the operation (signed by all the proponents)
- Ownership and management structure of the farm or farms

IT WAS

MOVED BY: Commissioner Pranger
SECONDED BY: Commissioner Bose

THAT for the purposes of Section 33(2) of the *Agricultural Land Commission Act*, there are no persons it considers affected by the reconsideration.

AND THAT the Commission requests the above information in order to make a final decision on the application.

CARRIED

Resolution #2146/2009