



Agricultural Land Commission

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April 25, 2012

Reply to the attention of Tony Pellett
File 36611 (Application ID 43061)

Ministry of Environment
4th floor, 2975 Jutland Road
VICTORIA BC V8W 9M9

Attention: Russ Malcolm, Land Acquisition Analyst

Re: Application to subdivide land for a regional park within the Agricultural Land Reserve

Please find attached the Minutes of Resolution # **167/2012** outlining the Commission's revised decision as it relates to the above noted application. Please note that the Commission is aware that the first of the two conditions may require further action on the part of your Ministry.

Please send two (2) paper prints of the final survey plans to this office. When the Commission confirms that all conditions have been met, it will authorize the Registrar of Land Titles to accept registration of the plan.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to read 'B. Underhill', is written over a white background.

Brian Underhill,
Executive Director

Enclosure: Minutes

cc: Corporation of Delta (file LU6001)
Metro Vancouver Parks, Attention: Mitch Sokalski
Metro Vancouver Parks, Attention: Ken Stephens
BC Assessment Authority, Richmond

TP/
36611d3



PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on March 22, 2012 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C.

COMMISSION MEMBERS PRESENT:

Richard Bullock	Chair
Jennifer Dyson	Vice-Chair
Gordon Gillette	Vice-Chair
Sylvia Pranger	Vice-Chair
Bert Miles	Commissioner
Jim Johnson	Commissioner
Jerry Thibeault	Commissioner
Lucille Dempsey	Commissioner
Denise Dowswell	Commissioner
Jim Collins	Commissioner

COMMISSION STAFF PRESENT:

Tony Pellett	Regional Planner
Eamonn Watson	Land Use Planner
Colin Fry	Executive Director

APPLICATION ID: #43061 (Legacy #36611)

PROPOSAL: To create a parcel of 8.1 ha for a regional park to be administered by Metro Vancouver under the Lower Mainland Nature Legacy Program. The remainder of the parent parcel is physically divided into an area of 4.1 ha adjoining the regional park (and to be accessed by an easement over the park area) and an area of 5.6 ha at a distance of 3.5 km by road.
(Application submitted pursuant to section 25(1) of the *Agricultural Land Commission Act*)

PROPERTY INFORMATION:

Owner: Her Majesty the Queen in right of the Province of British Columbia as represented by the Minister of Crown Lands [Ministry of Environment]

Date of Acquisition: January 11, 1989

Parcel ID: 008-728-950

Title No. BB1701653

Legal Description: Pcl."A" (Exp. Plan 30794) of Lot 13 Sec.24 Tp5 NWD Plan 25196 except: Pcl.ONE (Reference Plan 38003); Plan BCP38045; part Plan EPP783

Civic Addresses: 3130 · 64 Street and 3135 · 72 Street, Delta

Size: 17.8 ha

Area in ALR: 17.8 ha

Current Land Use: West 5.6 ha agricultural; east 12.2 ha vacant, unused

Farm Classification: Yes No
(BC Assessment)

COMMISSION CONSIDERATION:

Context

Section 6 of the *Agricultural Land Commission Act* identifies the purposes of the Commission as: (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.

Agricultural Capability

Based on the information contained in Map 92G.005 (Scale 1:25,000) of the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system, the dominant agricultural capability ratings are identified as being:

West portion

Unimproved Rating: 4W Improved Rating: (2WN)

East portion, adjoining 72 Street (proposed regional park)

Unimproved Rating 6:5NW 4:4NW Improved Rating (6:4N 4:3NW)

East portion, west of proposed regional park

Unimproved Rating: 6:5NW 4:3WA Improved Rating: (6:4N 2:1 2:2T)

Class and Subclass Descriptions

Class 1 – Land in this class has either no or only very slight limitations that restrict its use for the production of common agricultural crops

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 4 – Land in this class has limitations that require special management practices or severely 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.

A	soil moisture deficiency
N	salinity
W	excess water

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.

Assessment of Potential Impact on Agriculture

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. Because the proposed park is on the poorer soils and will provide parking, thereby enabling freer movement of farm vehicles on and off the Boundary Bay dyke, the Commission believes the proposal would have a positive impact on existing and potential agricultural use of nearby farms. It was considered negative that the proposal was advanced without funding to create separate titles for the remaining two segments of the property.

Other Factors

The 1995 Lower Mainland Nature Legacy Program relied on the Agricultural Land Reserve Subdivision and Land Use Regulation permitting parks and recreation reserves, whether established by the Provincial government, a regional district or a municipality, that are left or kept in their natural state except to the extent necessary to facilitate outdoor recreation by modifying the site to provide public access, subject to specified limitations. This application therefore deals with the subdivision to create the parcel and also with approval for the parcel to be used as a regional park, within a municipality.

The background to the existing parcelization is as follows:

In January 1969 the 67.5 ha Linton farm was expropriated as part of the Roberts Bank Backup Lands. Air photos show that most of the farm was cultivated but the east end was in pasture.

In September 1970 2.1 ha was dedicated as a railway right of way, leaving 65.4 ha.

In July 2008, with Commission approval, 3.8 ha was taken for the South Fraser Perimeter Road (SFPR) adjoining the north side of the railway right of way, leaving 61.6 ha.

In April 2009, under the *Tsawwassen First Nation Final Agreement Act* (not requiring approval by the Commission), 43.8 ha was transferred to Tsawwassen First Nation (TFN) ownership within the Corporation of Delta, leaving 17.8 ha in two discrete areas: 5.6 ha to the north of the railway line and SFPR at 64 Street; 12.2 ha at 72 Street.

By Resolution #347/2006 following a site inspection, the Commission allowed the proposed 0.8 ha staging area (including vehicle parking) but it deferred consideration of creating an 8.1 ha regional park parcel pending receipt of a professionally prepared agricultural plan for the subject property including an agricultural justification for the proposed subdivision.

By Resolution #522/2009 following the TFN transfer, the Commission allowed subdivision to separate the 5.6 ha area from the 12.2 ha balance, for regional park purposes. This decision was reached before the Commission was advised that the Lower Mainland Nature Legacy Program did not allow for the regional park to exceed 8.1 ha.

CONCLUSIONS:

1. That the land under application has limited agricultural capability but is appropriately designated as ALR.
2. That the land under application has limited suitability for agricultural use.
3. That the proposal will have a positive impact on agriculture.
4. That the proposal is consistent with the objective of the *Agricultural Land Commission Act* to preserve agricultural land.

IT WAS

MOVED BY: Commissioner Richard Bullock

SECONDED BY: Commissioner Jerry Thibeault

THAT the Commission initiate reconsideration of its decision under Resolution #522/2009 on the grounds that the decision was in error because it did not recognize that the maximum size for the regional park was 8.1 ha and because of the information newly provided by Commission staff that the 4.1 ha area to the west has a substantially higher improved agricultural capability rating than for the 8.1 ha proposed regional park parcel;

AND THAT no other persons are affected by the reconsideration;

AND THAT the application to create a parcel of 8.1 ha and use it as a regional park in which the primary purpose is biodiversity conservation be approved;

AND THAT the approval is subject to the following conditions:

- a subdivision plan must be submitted creating the 8.1 ha regional park parcel and an adjoining 4.1 ha parcel with access from 72 Avenue; and
- a 0.8 ha staging area including vehicle parking must be provided on the regional park parcel as previously approved;

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, and decisions and orders of any person or body having jurisdiction over the land under an enactment.

CARRIED
Resolution # 167/2012