



**Agricultural Land Commission**  
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January 10, 2012

Reply to the attention of Lily Ford  
ALC File 52288

Chad and Michelle Nearing  
RR1, 9575B Highway 43, M5, C10  
Sparwood, BC  
V0B 2G1

Dear Applicants:

**Re: Application for Non-Farm Use in the Agricultural Land Reserve**

Please find attached Minutes of Resolution # 512/2011 outlining the Commission's decision as it relates to the above noted application.

Other approvals may be necessary. Prior to proceeding, the Commission suggests you contact your Local Government.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

  
Colin Fry, Executive Director

Enclosure: Minutes

cc: District of Sparwood

LF/52288d1



## PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on October 27, 2011 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C.

### COMMISSION MEMBERS PRESENT:

Gordon Gillette	Chair
Jim Collins	Commissioner
Lucille Dempsey	Commissioner
Denise Dowswell	Commissioner
Jerry Thibeault	Commissioner

### COMMISSION STAFF PRESENT:

Lily Ford	Land Use Planner
Colin Fry	Executive Director

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### APPLICATION ID: #52288

**PROPOSAL:** Request to replace an existing residence with a modular home, on a 2.2 ha parcel that contains four trailers that are part of a neighbouring mobile home park. The proposal requires rezoning of the property to Mobile Home Park (MHP).

(Application submitted pursuant to section 20(3) of the *Agricultural Land Commission Act*)

### PROPERTY INFORMATION:

**Owners:** Chad and Michelle Nearing (as Joint Tenants)  
**Date of Acquisition:** September 8, 2008  
**Parcel ID:** 027-522-679  
**Title No.** CA1545530  
**Legal Description:** Lot 4, District Lot 6666, Kootenay District Plan NEP86637  
**Civic Address:** 9575 Highway 43, Sparwood  
**Size:** 2.2 ha  
**Area in ALR:** 2.2 ha  
**Current Land Use:** Residential  
**Farm Classification:**  Yes  No  
(BC Assessment)

#### **SITE INSPECTION MEETING:**

A site inspection meeting was conducted on September 14, 2011 following which a report was prepared. The site inspection meeting report was certified by Commissioner Thibeault on October 18, 2011.

Section 14(2) of the *Agricultural Land Commission Act* provides that a member of the Commission who was not present at a meeting to determine an application or other matter may vote on the application or matter only if a summary of the meeting is given to the member before the vote. The site inspection meeting report, certified by Commissioner Thibeault on October 18, 2011, constitutes a written record of the site inspection meeting and has been provided to all Commission members recorded above.

#### **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 82G/15 (Scale 1:50,000) of the Canada Land Inventory (CLI), 'Land Capability Classification for Agriculture' system, the agricultural capability ratings are identified as:

Unimproved Rating: 6PT      Improved Rating: 6PT

**Note:** These ratings apply to the entire property, except as noted below.

Unimproved Rating: 5MP      Improved Rating: 4P

**Note:** These ratings apply to a small sliver of land (approximately 0.2 ha) along Highway 43, in the northwest corner of the property.

##### **Class and Subclass Descriptions**

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.

Class 6 – Land in this class is non-arable but is capable of producing native and or uncultivated perennial forage crops.



M moisture deficiency (droughtiness)  
P stoniness  
T topography

The Commission considered these ratings and the observations provided by Commissioner Thibeault and the site inspection report. Having considered all of the above evidence, the Commission concluded that the physical characteristics of the property significantly limit its agricultural potential.

### **Assessment of Potential Impact on Agriculture**

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. The Commission noted that the property is located at the southern extent of the ALR in the area; properties to the south and east are located outside of the ALR and properties to the north are separated from the subject property by Highway 43. The property to the west is largely constrained by topography and contains a small equestrian facility. The Commission further noted that the proposal would not intensify residential development of the property but would merely allow the applicants to replace their home while maintaining the existing non-conforming use. As such, the Commission found that the proposal would have minimal impact on surrounding agriculture. The Commission further found that the proposal would have minimal impact on the agricultural potential of the subject property, which is already limited by its physical characteristics. For these reasons, the Commission concluded that the proposal would have no significant impact on agriculture.

### **Other Factors**

- On April 4, 2011, the Council of the District of Sparwood authorized the application and noted that if ALC approval is received, it will proceed with the rezoning of the property from A-1 to R-MP subject to a covenant restricting the number of homes to what is currently on the lot.
- On July 13, 2007, the Commission approved subdivision of a 13.7 ha parcel into four lots, including the subject parcel, on the basis that the land had limited agricultural capability and was not suitable for agriculture.

### **DECISION:**

#### **IT WAS**

**MOVED BY: Commissioner Gordon Gillette**

**SECONDED BY: Commissioner Jerry Thibeault**

THAT the application be allowed for the following reasons:

1. The subject property has limited agricultural capability.

2. The proposal will not significantly impact agricultural use of the subject property or surrounding lands.

AND THAT the approval is subject to the following conditions:

- approval for non-farm use is granted for the sole benefit of the applicant and is non-transferable.

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 # 512/2011**