



**Agricultural Land Commission**  
133-4940 Canada Way  
Burnaby, British Columbia V5G 4K6  
Tel: 604 660-7000  
Fax: 604 660-7033  
www.alc.gov.bc.ca

5<sup>th</sup> January 2012

Reply to the attention of Roger Cheetham  
ALC File: 52293

Henning Nielsen  
3222 Lacon Road  
Denman Island, BC  
V0R 1T0

Dear Mr. Nielson:

**Re: Application to Subdivide land in the Agricultural Land Reserve**

Please find attached the Minutes of Resolution #750/2011 outlining the Commission's decision as it relates to the above noted application.

---

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to read 'B Underhill', is written over the printed name.

Brian Underhill, Executive Director

Enclosure: Minutes

cc: Islands Trust Denman Island (File DER-ALR-2011.1 (Nielson))

rc/  
52293d1



## PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on November 24<sup>th</sup>, 2011 at the offices of the Commission located at #133 – 4940 Canada Way, Burnaby, B.C.

### COMMISSION MEMBERS PRESENT:

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

### COMMISSION STAFF PRESENT:

Colin Fry	Executive Director
Brian Underhill	Executive Director
Roger Cheetham	Regional Planner

---

### APPLICATION ID: # 52293

APPLICANT: 736800BC Ltd.

AGENT: Henning Nielson

**PROPOSAL:** Subdivision. The proposal involves the reconfiguration of 6 properties to create 13 approximately 15 ha parcels and three remainder parcels.

(Submitted pursuant to section 21(2) of the *Agricultural Land Commission Act*)

### PROPERTY INFORMATION:

PID: 006-639-089

**Legal Description:** West ½ of the South West ¼, Section 25, Denman Island, Nanaimo District  
Except parts in Plans VIP 87752

**Location:** Swan Road

PID: 006-660-495

**Legal Description:** The East ½ of Section 28, Denman Island, Nanaimo District Except Parts  
in Plans VIP 87737 and VIP 88293

PID: 006-660- 614

**Legal Description:** Fractional Section 29, Denman Island, Nanaimo District Except Parts in  
Plans VIP87737 and VIP88293

PID: 026-826-445

ALC Application #52293  
Resolution #750 /2011

**Legal Description:** Lot 3, Sections 25 and 30 Denman Island, Nanaimo District Plan VIP 81780  
(See Plan as to limited access)

**PID:** 026-826-437

**Legal Description:** Lot 2, Section 22 and 25, Denman Island, Nanaimo District, Plan VIP 81780  
Except Parts in Plans VIP 87752 and VIP 88294

**PID:** 006-660-185

**Legal Description:** The North ½, Section 26, Denman Island, Nanaimo District, Except Parts in  
Plans VIP 87752 and VIP 88294

**CURRENT LAND USE:** Predominantly young second growth– the property has been recently  
logged.

---

**COMMISSION CONSIDERATION:**

Section 6 of the *Agricultural Land Commission Act* identifies the purposes of the Commission 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**

Based on the information contained in Map 92F/10 (Scale 1:50,000) of the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system, the agricultural capability ratings are identified as being: 5M unimproved and 3M improved.

**Class and Subclass Descriptions**

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.

M soil moisture deficiency

**Site Specific Report regarding Agricultural Capability**

Report Prepared By: C&F Land Resource Consultants

Author: Brian French, P. Ag.

Date Prepared: June 7<sup>th</sup> 2006

The assessment of the unimproved rating of the bulk of the property is 5A, as indicated in the CLI ratings. However it is not considered that this can be improved. The smaller southern portions are assessed as Class 3 and 4 with poor drainage and a perched water table.

### **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 noted that when approving the exclusion from the ALR of the area to the east it required the registration of a 20 metre wide covenant providing for the retention of natural vegetation and prohibiting buildings to ensure that no negative impact is caused on agricultural activity on the subject property. The Commission also noted that to the west is a recently created provincial park and to the north an environmentally sensitive area. In view of these considerations the Commission did not believe that 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, noting the following:

- That the proposed subdivisions form part of a long negotiation process involving changes to the boundaries to the ALR, the re-designation and rezoning of land and the creation of a provincial park.
- That when the Commission agreed to the changes to the ALR as reflected in Commission Resolution 946/2009 it indicated that "smaller sized parcels are not likely to be in the best interest of future farming and that subdivision consideration would be carefully evaluated through the ALC application process".
- That, in her e-mail dated 13<sup>th</sup> September 2011, Jill Hatfield, the Regional Agrologist for the Ministry of Agriculture indicated that she considered the proposed lot sizes appropriate for the types of agriculture that can be anticipated on Denman Island.
- That the proposed lot sizes are in accordance with the report prepared by Brian French on crop suitability.

Notwithstanding these assessments the Commission was concerned that it had no ability to ensure that the parcels are used for the growing of grapes or other crops identified in the report on crop suitability. It was concerned that the subdivisions now proposed could be sold to new owners who might not develop the parcels as envisaged and may use the properties for the development of rural estates. The Commission considered that the creation of the new parcels would further fragment the subject property and would limit the range of agricultural options for the property as a whole. While the Commission appreciated that the proposed subdivisions were an outcome of a long negotiation process, it did not consider, particularly in the light of its comments quoted above relating to Resolution Number 946/2009, that it was bound by previous positions taken by the Commission to approve the proposed new subdivisions.

### **Conclusions**

On balance the Commission considered that having regard to all of the considerations the proposed subdivisions could not be supported.

### **IT WAS**

**MOVED BY:** Commissioner B. Miles  
**SECONDED BY:** Commissioner S. Pranger

ALC Application #52293  
Resolution #750 /2011

THAT the application be refused.

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, that the time limit for submitting a request for reconsideration is one (1) year from the date of the decision letter, and that if the applicant sells or transfers the property within one (1) year of the decision the new owner is not eligible to submit a request for reconsideration.

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 # 750/2011**