



Agricultural Land Commission
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November 14, 2016

ALC File: 55352

Manuel Domanski
14774 Lower Cache Road
Charlie lake, BC V0C 1H0

Dear Mr. Domanski:

Re: Application to Subdivide Land in the Agricultural Land Reserve (ALR)

Please find attached the Reasons for Decision of the North Panel (Resolution #377/2016) as it relates to the above noted application. As agent, it is your responsibility to notify the applicant accordingly.

Reconsideration of a Decision as Directed by the ALC Chair

Please note that pursuant to [s. 33.1 of the *Agricultural Land Commission Act*](#), the Chair may direct the executive committee to reconsider any panel decision if, within 60 days from the date of this decision, he considers that the decision may not fulfill the purposes of the commission as set out in s. 6, or does not adequately take into consideration s. 4.3.

You will be notified in writing if the Executive Committee is directed to reconsider your decision. The Commission advises you to take this 60 day period into consideration prior to proceeding with any actions upon this decision.

Reconsideration of a Decision by an Affected Person

We draw your attention to [s. 33\(1\) of the *Agricultural Land Commission Act*](#) which provides a person affected the opportunity to submit a request for reconsideration.

- 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.

For further clarity, s. 33.1 and s. 33(1) are separate and independent sections of the *Agricultural Land Commission Act*.

Further correspondence with respect to this application is to be directed to Jess Daniels at (Jessica.Daniels@gov.bc.ca).

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

A handwritten signature in black ink that reads "Jess Daniels". The signature is written in a cursive, flowing style.

Jess Daniels, Land Use Planner

Enclosure: Reasons for Decision (Resolution #377/2016)

cc: Peace River Regional District (File: 105/2016)

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AGRICULTURAL LAND COMMISSION FILE 55352

REASONS FOR DECISION OF THE NORTH PANEL

Application submitted pursuant to s. 21(2) of the *Agricultural Land Commission Act*

Applicants:

**Leonid Domanski
Helene Domanski
(the “Applicants”)**

Agent:

**Manuel Domanski
(the “Agent”)**

Application before the North Regional Panel:

**Dave Merz, Panel Chair
Sandra Busche**

THE APPLICATION

[1] The legal description of the property involved in the application is:

Parcel Identifier: 014-772-027

The North East ¼ of Section 8, Township 86, Range 20, West of the 6th Meridian,
Peace District

(the “Property”)

[2] The Property is 64.6 ha in area.

[3] The Property is generally described as being located south west of the 256 and 285 Road intersection, approximately 11 km west of Montney.

[4] The Property is located within a designated agricultural land reserve (“ALR”) as defined in s. 1 of the *Agricultural Land Commission Act* (the “ALCA”).

[5] The Property is located within Zone 2 as defined in s. 4.2 of the *ALCA*.

[6] Pursuant to s. 21(2) of the *ALCA*, the Applicants are applying to subdivide the 64.6 ha Property into two lots of 15 ha and 49.7 ha along a seasonal creek in the northwest corner. The 15 ha parcel is proposed to be subdivided for Applicants’ son (the “Proposal”). The Proposal along with supporting documentation is collectively the application (the “Application”).

RELEVANT STATUTORY PROVISIONS

[7] The Application was made pursuant to s. 21(2) of the *ALCA*:

21(2) An owner of agricultural land may apply to the commission to subdivide agricultural land.

[8] The Panel considered the Application pursuant to its mandate in s. 4.3 of the *ALCA*:

- 4.3 When exercising a power under this Act in relation to land located in Zone 2, the commission must consider all of the following, in descending order of priority:
- (a) the purposes of the commission set out in section 6;
 - (b) economic, cultural and social values;
 - (c) regional and community planning objectives;
 - (d) other prescribed considerations.

[9] The purposes of the Agricultural Land Commission (the “Commission”) set out in s. 6 are as follows:

6 The following are the purposes of the commission:

- (a) to preserve agricultural land;
- (b) to encourage farming on agricultural land in collaboration with other communities of interest; and
- (c) 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.

EVIDENTIARY RECORD BEFORE THE PANEL

[10] The Panel considered the following evidence:

1. The Application
2. Local government documents
3. Agricultural capability map, ALR context map, and satellite imagery

All documentation noted above was disclosed to the Agent in advance of this decision.

[11] At its meeting of September 12, 2016, the Peace River Regional District (the “PRRD”) resolved to forward the application with the following comments:



That the Regional Board support ALR Subdivision Application 105/2016 (Domanski) and authorize the application to proceed to the Agricultural Land Commission as it is consistent with the Official Community Plan.

[12] The Panel reviewed one relevant application located adjacent to the northeast of the Property:

Application ID: 53394
(Dick, 2013)

To subdivide the 64.5 ha property into two parcels of 8 ha and 56.5 ha as divided by Stoddart Creek. The Commission noted that the subject property has a Canada Land Inventory (CU) soils capability rating of 50% 5C and 50% 7:5T - 3:6TP. The limiting subclasses are severe climate, stoniness and topography. Notwithstanding these limitations, the land is capable of agricultural uses and has been largely cleared and improved for agriculture. The Commission noted that the parcels in the area are predominantly ¼ sections. An 8 ha parcel is not a suitable size from an agricultural perspective in this region and likely would be used wholly for residential, or possibly hobby farm uses. Furthermore, an 8 ha lot may come under further pressures to subdivided. The Commission also did not consider the creek to be a significant impediment to farming. The application was refused by ALC Resolution #107/2014.

SITE VISIT

[13] The Panel, in the circumstances of the Application, did not consider it necessary to conduct a site visit to the Property based on the evidentiary record associated with the Application.

FINDINGS*Section 4.3(a) and Section 6 of the ALCA: First priority to agriculture*

[14] In assessing agricultural capability, the Panel referred in part to agricultural capability mapping and ratings. The ratings are identified using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system. The improved agricultural capability ratings identified on CLI map sheet 94A/6 for the mapping units encompassing the Property are Class 4 and Class 5; more specifically, 75% 5C and 25% (6:5T-4:4X).

Class 4 - land is capable of a restricted range of crops. Soil and climate conditions require special management considerations.

Class 5 - land is capable of production of cultivated perennial forage crops and specially adapted crops. Soil and/or climate conditions severely limit capability.

The limiting subclasses associated with this parcel of land are C (adverse climate, T (topographic limitations) and X (combination of soil factors).

[15] The Panel reviewed the CLI ratings and finds that the Property has moderate agricultural capability. Notwithstanding soil limitations, the Panel finds that the land is capable of agriculture.

[16] The PRRD provided the following information related to agriculture:

- *The majority of the property is cultivated and is being seeded to wheat this year...*
- *The proposal will have the impact of reducing the output of the existing farm. However, the portion of land being subdivided is surrounded by a spring runoff creek that could hinder the movement of farm machinery or create a lower output*

of agricultural product, during wet seasons. This proposal is not in keeping with the context of the area. The subject property is surrounded by complete quarter sections.

[17] The Applicants provided the following information regarding the Property:

- *“Our neighbours rent this quarter section from us and it is being seeded in wheat this year”*
- *“It has been ploughed few years ago and is being cultivated”.*
- *“There is a mobile house being put up for family residence”.*
- *“This parcel has some nice tree lines and spring runoffs which really sets the fields apart”.*
- *“We are planning to farm both pieces at the same time and even with the same produce”.*

[18] The Panel notes that the Applicants are not farming; the Applicants lease the quarter section to neighbours who grow wheat on the Property.

[19] The Panel notes that the subdivision is not with keeping in the context of the area and that the Commission refused a similar proposal on an adjacent property to the northeast.

Section 4.3(b) of the ALCA: Second priority to economic, cultural and social values

[20] The Applicant did not provide any information specifically citing economic, cultural and social values.

Section 4.3(c) of the ALCA: third priority to regional and community planning objectives

[21] The Property is designated as Agriculture within the North Peace Fringe Area OCP Bylaw No. 1870 (2009). PRRD staff provided the following information:

Section 3.2.2 Policy 3 states that within the Agriculture designation the minimum parcel size will not be less than 63 ha (155 acres) with the following exception:

- b) Creation of a new parcel where the proposed parcel is separated from the remainder of the parcel by a railway, road right-of-way, or topographical constraint; and that these exceptions meet the following:*
- i) rezoning is not required;*
 - ii) the subdivision is limited to not more than one lot per parent parcel;*
 - iii) such subdivision is approved on a one time only basis per parent parcel; and*
 - iv) the location and configuration of any parcel created should not negatively impact agriculture operations or increase the potential for conflict with adjoining parcels.*

Based on these policy directions, the application is consistent with the OCP.

[22] The subject property is zoned A-2 (Large Agricultural Holdings Zone) pursuant to PRRD Zoning Bylaw No. 1343, 2001, wherein the minimum parcel size is 63 ha. PRRD staff provided the following information:

Section 33.2.b, Minimum Parcel size exceptions allows for:

(i) subject to the Local Services Act, the minimum parcel size shall not apply where a parcel is divided by a railway, highway right-of-way or watercourse, provide the parcel is subdivided along any such railway, highway right-of-way or watercourse, and the remainder of the parcel for which a subdivision is proposed is not less than 50 hectares Also should the proposal meet the requirements for subdivision under Section 514 of the Local Government Act, a zoning amendment would not be necessary.

[23] The Panel considered the provisions in the OCP and zoning bylaw which allow for subdivision below the minimum lot size where a parcel is divided by a railway, right-of-way, watercourse, or topographical constraint. In this instance the Panel does not consider the Creek to be a significant impediment to using the Property as an agricultural unit because there is access to both sides of the creek from 256 Road. As there is sufficient access to continue utilizing the Property as a cohesive agricultural unit, the provisions of the OCP and zoning bylaw are not germane to consideration of the Proposal.



Weighing the factors in priority

[24] In considering s 4.3 (a) and the first priority to agriculture, the Panel notes that the Property is currently being farmed as a single unit. The Panel considered the proposed subdivision along the creek, yet does not consider the creek to be a significant impediment to using the Property as a single agricultural unit. The Panel believes that the area is suitable for farming and that the Proposal poses a negative impact to agriculture by undoing the farm as a single unit and reducing it to a smaller size. Further, the Panel notes that the subdivision is not keeping in context of the area.

[25] The Applicants did not provide any of economic, social, or cultural arguments in support of the Proposal. Despite the Proposal being consistent with provisions of the OCP and zoning bylaw to accommodate the Proposal below the minimum lot size, the Panel does not find that compliance with the OCP and zoning bylaw to be a compelling rationale to supersede the agricultural considerations to retain the Property in its current size and configuration.

DECISION

[26] For the reasons given above, the Panel refuses the Proposal.

[27] These are the unanimous reasons of the North Panel of the Agricultural Land Commission.

[28] A decision of the Panel is a decision of the Commission pursuant to s. 11.1(5) of the *Agricultural Land Commission Act*.

[29] This decision is recorded as Resolution #377/2016 and is released on November 14, 2016.



CERTIFICATION OF DECISION

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

Dave Merz, Panel Chair, on behalf of the North Panel

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