



**Agricultural Land Commission**  
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November 15, 2016

ALC File: 55411

Couverdon Real Estate/TimberWest Forest II Ltd.  
201-648 Terminal Avenue  
Vancouver, BC V9R 5E2

Attention: Jason Carvalho

**Re: Application to Conduct a Non-Farm Use in the Agricultural Land Reserve (ALR)**

Please find attached the Reasons for Decision of the Island (Resolution #391/2016) 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 Sara Huber at (sara.huber@gov.bc.ca).

Page 2 of 2

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

A handwritten signature in black ink, appearing to be 'S. Huber', written in a cursive style.

Sara Huber, Land Use Planner

Enclosure: Reasons for Decision (Resolution #391/2016)

cc: Cowichan Valley Regional District (File: 01-F-14ALR)

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## **AGRICULTURAL LAND COMMISSION FILE 55411**

### **REASONS FOR DECISION OF THE ISLAND PANEL**

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

**Applicant:** **TimberWest Forest II Ltd.**  
**(the “Applicant”)**

**Agent:** **Jason Carvalho**  
**(the “Agent”)**

**Application before the Island Regional Panel:** **Jennifer Dyson, Panel Chair**  
**Honey Forbes**  
**Clarke Gourlay**



## **THE APPLICATION**

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

Parcel Identifier: 018-871-020

Lot 2, Section 38, Renfrew District (Situate in Cowichan Lake District), Plan

VIP59274

(the "Property")

[2] The Property is 103.4 ha in area (28.2 ha in the ALR).

[3] The Property is generally described as being located on South Shore Road and Gordon Bay Main, Honeymoon Bay, BC.

[4] The Property is partially 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 1 as defined in s. 4.2 of the *ALCA*.

[6] Pursuant to s. 20(3) of the *ALCA*, the Applicant is applying to locate a sewage drain field on 2.3 ha for the Cowichan Valley Regional District (the "Proposal"). The Proposal along with supporting documentation is collectively the "Application".

## **RELEVANT STATUTORY PROVISIONS**

[7] The Application was made pursuant to s. 20(3) of the *ALCA*:

20(3) An owner of agricultural land or a person with a right of entry to agricultural land granted by any of the following may apply to the commission for permission for a non-farm use of agricultural land.

[8] The Panel considered the Application within the context of s. 6 of the *ALCA*:



- 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**

[9] The Panel considered the following evidence:

1. The Application
2. Local government documents
3. Previous application history
4. Agricultural capability map, ALR context map, and satellite imagery
5. Additional information provided by the Agent:
  - a. Government Agency Comments on Bylaw Amendment Referral
  - b. *Re: Agricultural Land Commission Request for Information Application 55411 (TimberWest)*, dated June 17, 2016
  - c. *Re: Agricultural Land Commission Site Visit ALC Application 55411 (TimberWest)*, dated June 30, 2016

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

[10] At its meeting of May 11, 2016, the Cowichan Valley Regional District (the “CVRD”) Board resolved:

*That Application No. 01-F-14ALR be forwarded to the Agricultural Land Commission (subdivision and non-farm use) prior to consideration of bylaw amendments.*

[11] The Panel reviewed one previous application involving the Property:



Application ID: 51639  
(TimberWest, 2010)

To widen the existing statutory right of way to accommodate an access road and underground hydro for a community water well. The Commission felt the approval would have little impact on agriculture. The application was approved by ALC Resolution #2566/2010.

The Panel reviewed three relevant applications relating to the application:

Planning File 29183  
(ALC, 1994)

The Commission conducted a review of properties for exclusion in Honeymoon Bay. The Commission identified Section 15 East of Gordon Bay Provincial Park, and Areas to the Southwest and South of Honeymoon Bay. The review was approved by ALC Resolution #1157/94.

**Note: Application Reference 29183 is located northwest of the Property.**

Application ID: 8331  
Legacy ID: 31388  
(Solmie, 1997)

To exclude 6.19 ha from the ALR for development into semi-private recreational sites (campground). The Commission determined that the poor soil quality warranted its exclusion. The application was approved by ALC Resolution #717/97.

**Note: Application 31388 is located northeast of the Property.**

Application ID: 40854  
Legacy ID: 35142  
(Hancock, 2003)

To include 80.9 ha of land in the ALR. The application was approved by ALC Resolution #315/2004.

**Note: Application 40854 is located northeast of the Property.**



## **SITE VISIT**

[12] On July 28, 2016, the Panel conducted a site visit in accordance with the *Policy Regarding Site Visits in Applications* (the “Site Visit”).

[13] A site visit report was prepared in accordance with the *Policy Regarding Site Visits in Applications* and was provided to the Agent on August 2, 2016 (the “Site Visit Report”).

## **FINDINGS**

[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 92C/16 for the mapping units encompassing the ALC portion of the Property are 80% Class 2X and Class 20% Class 5PM.

Class 2 - land is capable of producing a wide range of crops. Minor restrictions of soil or climate may reduce capability but pose no major difficulties in management.

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 X (combination of soil factors) M (moisture deficiency), and P (stoniness).

[15] As part of the Application, the Panel received a professional agrologist report, prepared by Madrone Environmental Services, Ltd., dated March 26, 2015 (the “Madrone Report”). The Madrone Report maps the soil capability areas at a scale of 1:5000 versus CLI at 1:50 000. For this reason, the Panel referred to the Madrone Report for assessment of agricultural capability. The Madrone Report finds that approximately 0.32 ha (10%) of the Property is improvable to Class 3P and Class 4D, and 2.68 ha (90%) of the Property is improvable to Class 3P.

[16] Based on the improved agricultural capability ratings identified in the Madrone Report, the Property has good agricultural capability and could support a wide range of crops.

[17] The Proposal is to accommodate a proposed residential development. As stated in the CVRD Staff Report to Committee (the “Staff Report”) dated April 11, 2016, there is not an immediate need for new residential development in the area as the population is expected to see a decline through to the year 2036. As stated in the Staff Report, *“rezoning the land today will compromise the ability for the CVRD to make appropriate land use decisions in the future, as preferences for housing types and lot sizes may change”*.

The Panel finds that in the absence of an identified need for residential development, the Panel is not compelled to consider the use of agriculturally capable land for an unsubstantiated proposal for residential use outside of the ALR.

[18] The Staff Report suggested that there were other locations that the sewage drain field could be located. The Staff Report states:

*...that while the need for sewage disposal is urgent for the 50 residences within the Mesachie Sewer Service Area...the proposed disposal site is approximately 4.5 km from the Mesachie Community, which is considered problematic due to anticipated higher cost associated with sprawling infrastructure both from a construction and operation and maintenance perspective.*

Additionally, two reports completed by Stantec Engineering from 2007 and 2012 have identified other potential sewage disposal options which are closer to Mesachie Lake.

In the absence of a detailed land use analysis of potential sewage field sites in the CVRD, the Panel finds that the rationale for the sewage disposal does not supersede the mandate of the ALC to preserve agricultural land.





**DECISION**

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

[20] These are the unanimous reasons of the Island Panel of the Agricultural Land Commission.

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

[22] This decision is recorded as Resolution #391/2016 and is released on November 15, 2016.

**CERTIFICATION OF DECISION**

A handwritten signature in black ink, appearing to be 'Jennifer Dyson', is written over a horizontal line.

Jennifer Dyson, Panel Chair, on behalf of the Island Panel

**END OF DOCUMENT**