



Agricultural Land Commission
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January 25, 2006

Reply to the attention of Ron Wallace

Jim Halvorson and Susan McKittrick
1246 Bazett Road
Duncan, BC V9L 5S8

Dear Sir/Madam:

Re: Application # J-36364-0
Lot 1, Sections 5 & 6, Ranges 2 & 3, Comiaken District, Plan VIP77988

The Provincial Agricultural Land Commission (the "Commission") has completed its review of your application to remove approximately 30,000 – 40,000 m³ of soil from the above noted property. The application was submitted pursuant to section 20(3) of the *Agricultural Land Commission Act* (the "ALCA").

The Commission wishes to thank you for taking the time to meet with its representatives on 4 January 2006.

After careful consideration the Commission supported the application in principle, based on your expressed intent to construct irrigation ponds. Final approval is subject to the submission of a site plan showing elevations, measured distances and the location of the ponds relative to property boundaries. Your submission should also include the total working area and depth and volume of soil to be removed. In addition, the Commission requires a report from a registered professional, with both agricultural and hydrological expertise, outlining details of the construction and maintenance to ensure improved agricultural utility of the property. The report should also include an assessment of the irrigation requirements for the proposed crops so that the size of the ponds are commensurate with the irrigation requirements. The plan and report must be submitted to, and approved by this office prior to the removal of any soil from the property.

The decision noted above is recorded as Resolution #005/2006.

Please quote your application number in any future correspondence.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Erik Karlsen, Chair

cc: District of North Cowichan – 3025-20-05-07

RW/eg/36364d1

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Site Inspection

A site inspection was conducted on 4 January 2006. Those in attendance were:

- Commissioners Seitz, Craven & Rugg
- Agricultural Land Commission Staff: Ron Wallace, Regional Research Officer and Roger Cheetham, Planner
- Applicant Jim Halvorson

The site inspection lasted from roughly 2:15 p.m. to 3:15 p.m.

Commission Discussion

After careful consideration the Commission supported the application, in principle, to remove between 30,000 m³ and 40,000 m³ of soil from the property in order to construct irrigation ponds. The approval is subject to the submission of a plan showing the location of the proposed ponds including the area, depth and volume of soil material to be removed. In addition, the Commission requires the submission of a report from a registered professional, with both agricultural and hydrological expertise, outlining details of the ponds' construction and maintenance to ensure improved agricultural utility of the property. The report should also include an assessment of the irrigation requirements for the proposed crops and that the volume of irrigation water available is commensurate with those needs. The Commission will issue final approval upon receipt and support of the above noted information.

IT WAS

MOVED BY: Commissioner D. Rugg
SECONDED BY: Commissioner L. Seitz

THAT the application be approved in principle subject to the conditions noted above.

AND THAT the approval is also subject to the following conditions:

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

Staff Report
Application # J – 36364-0
Applicant: Jim Halvorson & Susan McKitrick

DATE RECEIVED: November 14, 2005

DATE PREPARED: December 8, 2005

TO: Chair and Commissioners – Island Panel

FROM: Simone Rivers, Regional Research Officer

PROPOSAL: To remove 40,000 m³ of soil from the property in order to dig irrigation ponds. A non-farm use application has been made because of the volume of soil involved and because of the applicants' plans to sell the soil that is extracted.

This application is made pursuant to section 21(2) of the *Agricultural Land Commission Act*.

BACKGROUND INFORMATION:

The applicants are planning to remove the soil in order to develop a pond 6-7 m deep over an area of 2 ha. The project is suspected to last a year. The purpose of the reservoir is for irrigation and aquaculture.

The applicant originally submitted a notice of intent in September 2004 (see application # 35608). At that time a letter was written to the applicant requesting more information. Throughout the next year the applicant corresponded with Commission staff clarifying his plans for future development of the farm. Staff again wrote the applicant on September 9, 2005. In essence the Commission position was that the creation of the ponds for irrigation purposes is permitted under the regulations but that selling topsoil, (i.e., its removal from the property), is not and therefore a non-farm use application was to be made. It is the question of topsoil removal from the property and subsequent sale that is under application more than the proposal to develop the ponds.

The local government staff report gives the following background information, "the applicants wish to enhance the productivity of the 46 ha property for agricultural purposes. To do so requires an ability to irrigate. Originally, the applicants sought to acquire water rights from Quamichan Lake and feeder creeks. These, however, are fully committed and ground water supply is poor. Consequently, the applicant is required to build ponds for surface storage.

The issue of proceeds from the sale being linked to the development of the farm has been raised by the District Agricultural and discussed by the Agricultural Advisory Committee. No firm conclusion was reached by these parties and it was felt that the Commission was the appropriate body to deal with it the matter.

Local Government:

The Corporation of the District of North Cowichan

Legal Description of Property:

PID: 026-131-897

Lot 1, Section 5 & 6, Range 2 & 3, Comiaken District, Plan VIP77988

Location of Property:

1246 Bazett Road

Size of Property:

49.0 ha (The entire property is in the ALR).

Present use of the Property:

Farm, residence, cabin and 2 barns

Surrounding Land Uses:

WEST: Apples and lamb hobby farm (ALR)

SOUTH: Hay (ALR)

EAST: Residential (non-ALR)

NORTH: Hay (ALR)

Agricultural Capability:

Data Source: Agricultural Capability Map # 92B.082

The majority of the property is identified as having mixed prime and secondary ratings.

Zoning Bylaw and Designation:

Zoning Bylaw 2950 designates the parcel as (A1) Agricultural Zone

Minimum Parcel Size: 11.9 ha

PREVIOUS APPLICATIONS:

Application #35608-0

Applicant: Halvorson, Jim

Decision September 9, 2005

Date:

Proposal: To remove and sell 30-40, 000 m³ of topsoil from the property

Decision: The use requires a non-farm use application

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

Local Government Staff: Local government staff made the following comment, "From a staff perspective, this application is essentially another way through the ALC process to remove soil. The primary intent appears to legitimately be the development of the farm so, the "non-farm" aspect is somewhat misleading from a land use perspective. Consequently, staff are supportive of the application."

Local Government: It was moved, seconded and carried, that Council advise the Agricultural Land Commission that it has no objection to the "Non-Farm Use" Application for 1246 Bazett Road to remove 30 to 40,000 cubic meters of soil.

Agricultural Advisory Committee: The AAC reviewed the application and is supportive of the proposal

OTHER COMMENTS:

Regional Agrologist, Ministry of Agriculture and Lands: The Regional Agrologist has indicated support for the proposal given the soil characteristics of the area and provided the following comments. "Interestingly, the deep nature of the soils (an uncommon situation) means that excavation to bedrock will be significant. Spreading the soil on the remaining property is implied to be unnecessary. As an alternative, bonding could be required for the applicant to follow through with development of the intensive crops in the next 5 years"

STAFF COMMENTS:

Regional Research Officer: The applicant states that the profits from the sale will be used to help finance creation of the ponds as well as the further agricultural development of the property. If allowed, the Commission may wish to place conditions on the sale of the topsoil in order to ensure that the agricultural development takes place.

Staff Agrologist:

END OF REPORT

Signature

Date