



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

January 19, 2006

Reply to the attention of Ron Wallace

Robert and Virginia Norcross
7479 May's Road
Duncan, BC V9L 6A7

Dear Sir/Madam:

Re: **Application # J-36400**
Lot 2, Section 13, Range 6 & 7, Somenos District, Plan 41382, Except those parts in Plans 43971, VIP52756 and VIP58502

The Provincial Agricultural Land Commission (the "Commission") has now concluded its review of your application to subdivide the above noted property into two lots of 2.4 ha and 4.0 ha. The application was submitted pursuant to section 21(2) 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.

The Commission writes to advise that it approved your application subject to:

- the subdivision being in substantial compliance with the attached plan.
- compliance 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. The Commission suggests you contact the District of North Cowichan at your earliest convenience.

The decision noted above is recorded as Resolution #006/2006.

Please send two (2) paper prints of the final survey plans to this office well in advance of commencing registration at the Land Titles Office. When the Commission confirms that the subdivision plan is acceptable and verifies that all conditions of approval have been met it will authorize the Registrar of Land Titles to accept the application for deposit of the plan. Please quote your application number in any future correspondence.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

A handwritten signature in black ink, appearing to read 'Erik Karlsen', written over a white background.

Erik Karlsen, Chair

cc: District of North Cowichan (#3025-20-05-01)

RW/lv/Encl./36400d1

PLAN OF SUBDIVISION OF PART OF LOT 2, SECTION 13, RANGES 6 AND 7, SOMENOS DISTRICT, PLAN 41382

Pl. **43971**

Deposited in the Land Title Office at Victoria, B.C.

85-19676-D

this 29th day of JULY, 1986.

SCALE 1:2000



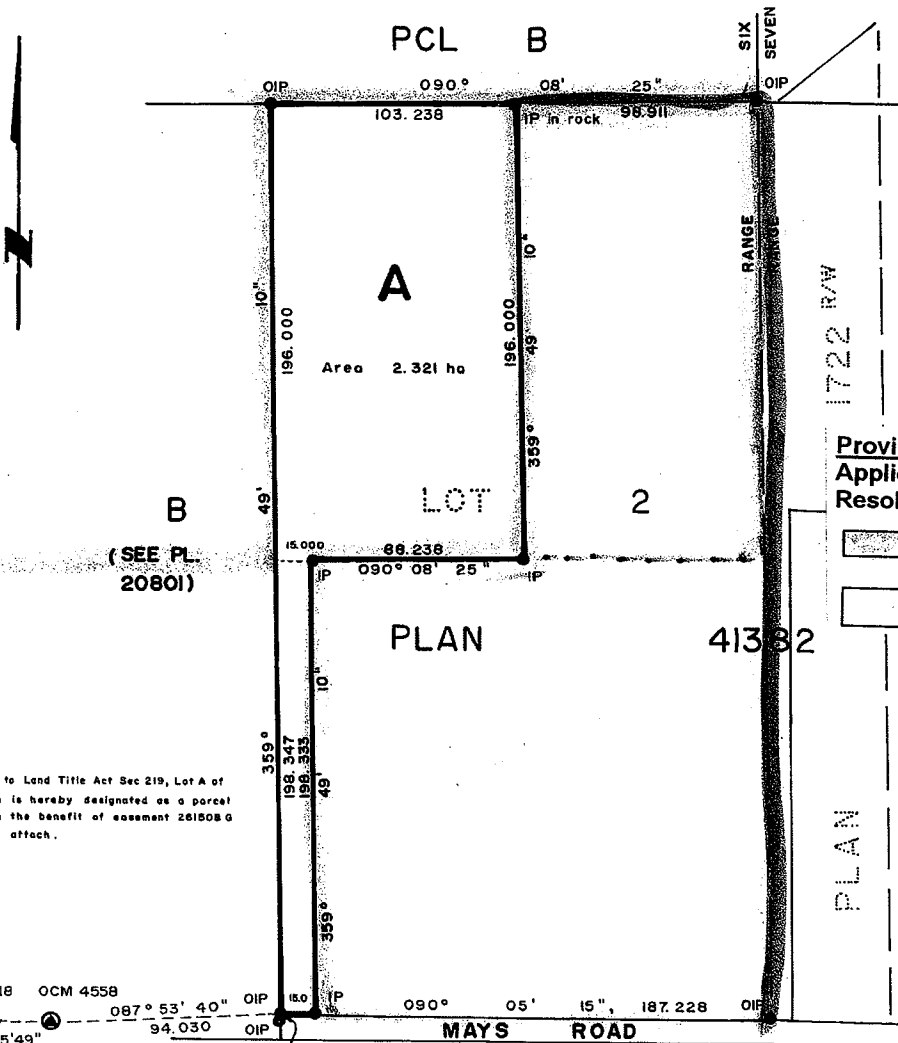
LEGEND:

- Bearings are grid bearings, derived from OCM's 4518 and 4558.
- ⊙ OCM denotes control monument found
- OIP denotes standard iron post found
- IP denotes standard iron post set
- All distances are in metres.
- This plan lies within Integrated Survey Area No. 10.
- This plan shows ground-level measured distances, prior to computation of U.T.M. coordinates, multiply by combined factor of 0.9996246.
- ha denotes hectares

M. Frankler
Deputy Registrar

R62117
HD

This Plan Lies Within the Cowichan Valley Regional District



014-315

Provincial Agricultural Land Commission
Application: J-36400
Resolution #006/2006

- Subject property.
- Approved subdivision of ±2.4 ha

Pursuant to Land Title Act Sec 219, Lot A of this plan is hereby designated as a parcel to which the benefit of assessment 261808 does not attach.

OCM 4518 OCM 4558
087° 53' 40" OIP 94.030 OIP
089° 35' 49" 715.681
187.228 OIP
MAYS ROAD

OWNER:

Robert Edward McCross
ROBERT EDWARD MCCROSS

WITNESS:

Name *Robin LeGarff*
Address COBBLE HILL
Occupation B.C.L.S.

Approved under the Land Title Act

this 11th day of JULY, 1986

Robin LeGarff
Approving Officer for the Corporation
of the District of North Cowichan

I, Robin LeGarff, a British Columbia Land Surveyor of Cobble Hill in British Columbia, certify that I was present at and personally superintended the survey represented by this plan, and that the survey and plan are correct. The survey was completed on the 26th day of June, 1986

Robin LeGarff
B.C.L.S.



Staff Report
Application # J – 36400-0
Applicant: Robert & Virginia Norcross

DATE RECEIVED: December 5, 2005

DATE PREPARED: December 13, 2005

TO: Chair and Commissioners – Island Panel

FROM: Simone Rivers, Regional Research Officer

PROPOSAL: To subdivide 6.4 ha property into one (1) 2.4 ha lot and one (1) 4.0 ha lot.

BACKGROUND INFORMATION:

The purpose of the subdivision is to provide a lot for the applicants' son. An access road through the remainder of the property will need to be dedicated in order to access the proposed lot. The applicants state that they have been able to subdivide for their other children and would like to do the same for this son.

The applicants submitted an "Agricultural Report" for the property that includes a Site Assessment and Agricultural Potential report. The report was prepared by Mark Turner, P.Ag.

This report states that the agricultural potential for the portion of the subject property proposed to be subdivided is very low due to the rocky outcropping, aridity and shallow soils. It is further stated that the greatest improvement of the agricultural potential for this site is that of a small acreage.

The local government report outlines the following history for this property and surrounding properties: The subject property is the remnant of a parcel of an original 21 ha property owned by the Norcross family for many years. Over that period three lots were subdivided for family members. The last was in 1988 with the Commission approval (after their initial application was denied). The proposed new lot is for the youngest son who currently resides on a trailer on the property. The Commission denied a request for a permanent residence in 1993 but approval for the trailer was given.

The applicants were advised that the property would require rezoning if the Commission approved the subdivision however the current OCP policy does not support such a zoning. - The Strategic Plan for Agriculture and Municipal policy on subdivision for a relative both conflict with this proposal.

Local Government:

District of North Cowichan

Legal Description of Property:

PID: 000-675-661

Lot 2, Section 13, Range 6 & 7, Somenos District, Plan 41382, Except those parts in Plans 43971, VIP52756 and VIP58502

Location of Property:

7479 Mays Road, Duncan

Size of Property:

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

Present use of the Property:

Rural Residential

Surrounding Land Uses:

WEST: Rural Residential (ALR)

SOUTH: Rural Residential (ALR)

EAST: Rural Residential (non-ALR)

NORTH: Rural Residential (non-ALR)

Agricultural Capability:

Data Source: Agricultural Capability Map # 92B.082

The majority of the property is identified as having Secondary ratings.

Official Community Plan and Designation:

The property is designated "Agriculture" in the local Official Community Plan

Zoning Bylaw and Designation:

The property is zone A1 (Agricultural Zone)

Minimum parcel size 11.9 ha.

PREVIOUS APPLICATIONS:

Application #27112-0

Applicant: Robert & Virginia Norcross

Decision Date: December 18, 1992

Proposal: To construct a second permanent dwelling on the 9 ha property for the daughter's use.

Decision: The Commission refused the request for the second dwelling because it might heighten expectations of further subdivision.

Application #19676-0

Applicant: Robert Norcross

Decision Date: January 29, 1986

Proposal: To subdivide a 2 ha lot from the 21 ha subject property.

Decision: Refused on the grounds that the subdivision would introduce another rural residential lot into the area, which may adversely affect the better capability lands to the west. The Commission suggested that subdivision on the non-ALR lands of the subject property would be more appropriate.

Application #19676-1

Applicant: Robert E. Norcross

Decision Date: April 23, 1986

Proposal: To subdivide a 2 ha lot from the 21 ha subject property because no road allowance is available for the 12.0 ha non-ALR portion of the property, that the easement allotted on the east side of the 8.0 ha ALR portion is unsuitable for a road, the grade would be approximately 20% and the area is comprised of rock.

Decision: Allowed on the grounds that the area requested for subdivision had limited agricultural capability.

RELEVANT APPLICATIONS:

Application #24333-0

Applicant: Reinhart & Ellen Relke

Decision Date: April 10, 1990

Proposal: To exclude the 16 ha property from the ALR in order to subdivide into rural residential lots.

Decision: Refused as proposed, however, the Commission approved the exclusion of the northerly 8 ha because of poor agricultural capability.

Application #31539-0

Applicant: Ellen Relke

Decision Date: October 21, 1997

Proposal: To subdivide off roughly 3.6 ha from the subject property's 7.8 ha for the applicant's son to build a home.

Decision: Refused on the grounds that the property has reasonably good agricultural capability and should remain a single contiguous unit.

Application #36239-0

Applicant: George Mischenko and Natalie Pawlenko

Decision Date: September 28, 2005

Proposal: To subdivide the 7.7 ha (19 acres) subject property into two lots, as divided by Relke Road that traverses the property, of 4.5 ha (11 acres) and 3.2 ha (8 acres). The applicants propose to retain the 4.5 ha property to be developed as a garden plant and horticultural business. The 3.2 ha property would then be sold to generate additional funds to mainly dig deep wells and explore for a much needed water source for the garden plant and horticultural business.

Decision: Refused as the Commission felt the property should be retained at its present size regardless of Relke road dividing the lot. In addition, the Commission does not support the subdivision to generate funds for irrigation purposes.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

Agricultural Advisory Committee: The minutes of the AAC made the following comments: The Committee reviewed the Agricultural Report on the site conditions of a proposed 2.4 ha subdivision off of Mays Road. The Applicant was in attendance and indicated that the new lot was intended for her son who may stay on it or sell it. The original property was 20 + ha and has been subdivided for other family members. The remaining parcel is 6.4 ha in size and is zone A2 (2 ha minimum)

The Committee noted the following:

- The mapping scale provided by the consultant was too large to be meaningful
- It does appear, however, that soil conditions have significant limitations due to topography and rock out crops.
- Better land is at the lower levels closest to Mays Road
- Applicant indicates a good well water supply
- Access road may consume land although use of a common easement may be an alternative.

The Committee noted the recent subdivision of lands off Relke Road. There was some discussion on the merits of retaining it in one parcel for crops capable of growing on such soils (grapes). It also considered whether the Commission would review the merits of leaving it in the ALR given the surrounding uses and soil limitations.

Motion: that the AAC advise council that it has no objection to the proposal to subdivide 2.4 ha of 7479 Mays Road - *Motion Defeated (tie vote)*

Staff advised that the application would proceed to Technical Planning without a recommendation.

Technical Planning Committee: the Technical Planning Committee passed the following resolution: That Council forward the application to subdivide the land to the ALC advising that current zoning and Official Community Plan policy do not support the application, however, the proposal is consistent with past land use decisions in the immediate area: AND FURTHER, that council suggest that the ALR reassess the surrounding ALR classification.

STAFF COMMENTS:

Staff recommend that the Commission consider the following:

- The applicants state that they have provided lots for their other children and would like to provide one for the final child. The history of subdivision of the property is as follows:
- The original subject property has been subdivided as follows:
 - 1984: creation of Plan 41382 – subdivision of 3.5 ha (outside the ALR)
 - 1986: creation of Plan 43971 – subdivision of 2 ha (within the ALR – Application # 19676)
 - 1991: creation of Plan VIP52756 – subdivision of 9.6 ha (outside the ALR)
 - 1994: creation of Plan VIP58502 – boundary adjustment (final separation of non-ALR from ALR portion of the property)
- The Commission refused the construction of a second dwelling on the house in 1992 (application # 27112) on the grounds that it did not want to increase expectations for subdivision of the property.
- The Commission refused the subdivision of an adjacent property in October 2005.
- The Commission has allowed the exclusion of the northern portion 8 ha of the adjacent property on the grounds that it had limited agricultural capability (The ALR maps have not been amended to show the exclusion, however the property has been subdivided into 0.4 ha lots.)

Staff recommends a site visit to determine the agricultural capability of the subject property as well as to determine the impact the subdivision will have on surrounding agricultural operations.

END OF REPORT

Signature

Date

Dec 15/05