



Agricultural Land Commission
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January 18, 2007

Reply to the attention of Terra Kaethler
ALC File: # S- 37108

Randy and Teresa Marston
1978 Kaye Road
Nanoose Bay, BC V9P 9L2

Dear Sir/Madam:

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

Please find attached the Minutes of Resolution # 0002/2007 outlining the Commission's decision as it relates to the above noted application.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Erik Karlsen, Chair

cc: Brian French, C & F Resource Consultants Ltd., 4383 Happy Valley Road
Victoria, BC V9C 3Z3

RC/lv/Encl.
37108d1



MINUTES OF THE PROVINCIAL AGRICULTURAL LAND COMMISSION

A meeting was held by the Provincial Agricultural Land Commission on 11th January, 2007 in North Saanich, B.C.

PRESENT:	Lorne Seitz	Vice Chair
	David Craven	Commissioner
	Don Rugg	Commissioner
	Roger Cheetham	Staff

For Consideration

Application # S - 37108
Applicant: Randy and Teresa Marston
Agent: Brian French
Proposal: To subdivide a 4 ha parcel into two (2) parcels each with an approximate area of 2 ha.
Legal: PID: 025-862-715
Lot 15, Block 564, Nanoose District, Plan VIP76465
Location: 1978 Kaye Road, Nanoose, Regional District of Nanaimo.

Site Inspection

A site inspection was conducted on 10th January 2007. Those in attendance were:

- Commissioners Seitz, Craven and Rugg
- Roger Cheetham, Regional Planner
- Brian French, Agent

The Commission noted that the existing dwelling is located at the southern end and an office at the northern end of a relatively large building located on the eastern side of the property as indicated on the drawing attached to the application. The Commission inspected the foundations for a second dwelling situated further west also as indicated on the plan. Mr. French indicated that it was the intention of the applicant to proceed with the development of a nursery on a portion of the property.

Context

The proposal was weighed against the purposes of the Commission as stipulated in section 6 of the *Agricultural Land Commission Act* (the "Act"). They 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

In noting that the agricultural potential of the site was limited the Commission was of the view that the subdivision of the property into two would further reduce this potential and would reduce the agricultural options for the property. Further, given the limited agricultural activity taking place on the property the Commission did not consider that any grounds existed to justify the erection of a second dwelling on the property. However, it had no objection to the erection of a dwelling on the new foundations provided that the dwelling in the existing building on the property was rendered uninhabitable within three months of the occupation of the new dwelling. Further, in the light of the proposal to develop a nursery on the property the Commission was prepared to review its decision with regard to the decommissioning of the existing dwelling should the development of the nursery reach a level where full time farm help was necessary for the operation.

IT WAS

MOVED BY: Commissioner Seitz
SECONDED BY: Commissioner Craven

THAT the application be refused as proposed.

AND THAT the proposed second dwelling be permitted subject to the rendering of the existing dwelling uninhabitable within three months of the occupation of the second dwelling.

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

Resolution # 0002/2007



Staff Report
Application # S – 37108
Applicant: Randy and Teresa Marston

Agent: Brian French

DATE RECEIVED: December 04, 2006

DATE PREPARED: December 29, 2006

TO: Chair and Commissioners – South Coast Panel

FROM: Terra Kaethler, Land Use Planner

PROPOSAL: To subdivide a 4 ha parcel into two (2) parcels each with an approximate area of 2ha.

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

BACKGROUND INFORMATION:

The owners wish to construct a main residence on the property. They applied for and received a building permit and constructed the foundation. The Regional District of Nanaimo has issued a stop work order on the construction as it would be a second dwelling on lands within the ALR , and as such does not conform to local zoning bylaws. The existing dwelling is attached to storage building and was intended for farm help accommodations.

The intent of the subdivision is to resolve an impasse with regard to construction of a new house on the property.

Local Government:

Regional District of Nanaimo

Legal Description of Property:

PID: 025-862-715
Lot 15, Block 564, Nanoose District, Plan VIP76465

Purchase Date :

June 30, 2004

BACKGROUND INFORMATION (CONT.):

Location of Property:

Located at 1978 Kaye Road, Nanoose Bay

Size of Property:

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

Present use of the Property:

Property has been selectively cleared. Large storage building on the east side of the property which has an attached dwelling on the south end.

Surrounding Land Uses:

NORTH: Rural Residential Subdivision, not in ALR
EAST: Recreational camping use, within ALR
WEST: Rural Residential Subdivision, not in ALR
SOUTH: Large rural parcel, partly cleared, within ALR

Agricultural Capability:

Data Source: Agricultural Capability Map # 92F.029
The majority of the property is identified as having Secondary ratings.

Official Community Plan and Designation:

Regional District of Nanaimo Englishman River OCP Bylaw No. 814 (1990)
Designation: Rural Residential

Zoning Bylaw and Designation:

Regional District of Nanaimo Zoning and Subdivision Bylaw No. 500 (1987)
Designation: Comprehensive Development 14 (CD 14)
Minimum Lot Size: 1.0 ha/unserviced 8.0 ha pursuant to Bylaw No. 500 (1987), note covenant (EW014830)

PREVIOUS APPLICATIONS:

Application #54-27972-0

Applicant: MacMillan Bloedel Ltd. (S.PARKSVILLE)
Decision Date: 1993
Proposal:
Decision:

Application #57-29895-0

Applicant: City of Nanaimo Trail Network
Decision Date: 1995
Proposal:
Decision:

Application #21-32149-0

Applicant: MacMillan Bloedel Ltd.

Decision Date: June 29, 1998

Proposal: To provide legal access to DL 171, the applicant requests permission to subdivide a lot off Block 564 to enable the owner of DL 171 to access their lot.

Decision: The Commission had no objection to the request for subdivision but does not require the subdivided lot to be consolidated with DL 171.

LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:

District of Nanaimo Board: forwarded with no recommendation

Local Planning Staff: Please note that a covenant exists (EW014830) on the title of the property that prohibits further subdivision of the land. There is a watercourse off the southeast corner of the and a second growth forest in the southwest corner of the property.

OTHER COMMENTS:

Agrologist Report: A report prepared by Brian French, P.Ag. states that the agricultural capability of the property is low (Class 5), and the same as the lands to the North and West, which are not in the ALR.

ATTACHMENTS:

- ALC Map BCGS, 92F.029
- Agrologist Report (6 pages)
- ALC Agricultural Capability Map 92F.029
- Aerial Photo

END OF REPORT



Signature

Dec. 29, 2006

Date