



**Agricultural Land Commission**  
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June 19, 2007

Reply to the attention of Terra Kaethler  
ALC File: #C - 37278

Polaris Land Surveying Inc  
PO Box 324 - #110-174 Wilson Street  
Victoria, BC V9A 7N7

Dear Sir/Madam:

Re: Application to Subdivide land in the Agricultural Land Reserve

Please find attached the Minutes of Resolution # 287/2007 outlining the Commission's decision as it relates to the above noted application. As agent, it is your responsibility to notify your client(s) accordingly.

Yours truly,

PROVINCIAL AGRICULTURAL LAND COMMISSION

Per:

Erik Karlsen, Chair

cc: Islands Trust Pender Island (#SPALR-2007-1)

Enclosure: Minutes

TK/lv/37278d1.



### **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**

#### **Assessment of Agricultural Capability**

In assessing agricultural capability, the Commission refers in part to agricultural capability mapping and ratings. The ratings are interpreted using the Canada Land Inventory (CLI), 'Soil Capability Classification for Agriculture' system, or the BC Land Inventory (BCLI), 'Land Capability Classification for Agriculture in B.C.' system.

The agricultural capability of the soil of the subject property is identified as Class 3 with a limitation of soil moisture deficiency. Land in this class has limitations that require moderately intensive management practices or moderately restrict the range of crops, or both.

The Commission considered that the agricultural capability of the property was significant, and that subdivision of the property would reduce the agricultural potential of the parcel as a whole. The Commission also considered that the proposal was not dissimilar to previous proposals that had been refused by the Commission in part based on the agricultural capability of the property.

#### **Assessment of Agricultural Suitability**

The Commission assessed whether the external factors such as encroaching non-farm development have caused or will cause the land to become unsuitable for agriculture. The Commission does not believe there are external factors that render the land unsuitable for agricultural use.

#### **Assessment of Impact on Agriculture**

The Commission also assessed the impact of the proposal against the long term goal of preserving agricultural land. In the Commission's view, the parcel has more agricultural value as a single unit than as three separate parcels. This is due to the fact that, in general, reduction of parcel size reduces the available options for agricultural use. The Commission believed that subdivision would negatively impact the agricultural opportunities available to the subject property in the long-term. The Commission also believed that the parcelization of properties within agricultural areas may impact existing or potential agricultural use of surrounding lands.

The Commission considered the family situation behind the application, and while appreciative of their needs and intentions, cannot consider estate settlement as a significant reason to divide farmland. The intent of the Act is to preserve and protect agricultural lands and farm communities in the long-term and the Commission felt that subdivision of the subject property as proposed was not in keeping with that mandate.

**Conclusions**

1. That the land under application has agricultural capability.
2. That the land under application is suitable for agricultural use.
3. That the proposal will impact agriculture.
4. That the proposal is inconsistent with the objective of the *Agricultural Land Commission Act* to preserve agricultural land.

**IT WAS**

**MOVED BY:** Commissioner Craven  
**SECONDED BY:** Commissioner Rugg

THAT the application be refused as proposed.

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 # 287/2007**



**Staff Report**  
**Application # C – 37278**  
**Applicant: Harold Henshaw**  
**Agent: Polaris Land Surveying Inc**

**DATE RECEIVED:** March 09, 2007

**DATE PREPARED:** May 24, 2007

**TO:** Chair and Commissioners – Island Panel

**FROM:** Terra Kaethler, Land Use Planner

**PROPOSAL:** Subdivision for a Relative: To subdivide the 14 ha subject property to create three (3) lots for the purposes of estate planning; lot one (1) at 5.0 ha, and lot two (2) and lot 3 (3) at approximately 4.5 ha each.

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

**BACKGROUND INFORMATION:**

The applicant and his family purchased the entire valley in 1967. In 1983 they reconfigured their holdings into 5 lots –one for each brother and a remainder outside of the ALR. The applicant subdivided the subject property a few years ago to create a lot outside of the ALR for his retirement. The intent of the current application is to transfer one lot to each of his children.

**Local Government:**

Islands Trust Pender Island

**Legal Description of Property:**

PID: 000-583-448

Lot 1, Section 2 and 4, Cowichan District, Plan 40899, EXCEPT Part in Plan VIP74121

**Purchase Date:**

01/01/1983

**Location of Property:**

9823 Spalding Road, Pender Island

**Size of Property:**

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

**BACKGROUND INFORMATION (cont.):**

**Present use of the Property:**

Currently one small dwelling located on proposed Lot 1. The applicant has stated that the land has been cultivated for hay, but there is minimal soil depth with a clay layer below so only one crop is harvested each year and commercial production is not feasible.

**Surrounding Land Uses:**

**WEST:** Hobby farm  
**SOUTH:** Owner's residence  
**EAST:** Hobby farm  
**NORTH:** Rural residential lots across Spalding Road

**Agricultural Capability:**

Data Source: Agricultural Capability Map #  
The property is identified as having Mixed Prime and Secondary ratings. The majority of the cleared area is identified as Class 3. The majority of the southern portion of the property is identified as Class 7.

**Official Community Plan and Designation:**

OCP: Bylaw 91 (2002)  
Designation: Agricultural (A)

**Zoning Bylaw and Designation:**

South Pender Land Use Zoning Bylaw 92 (2003)  
Designation: Agriculture (A)  
Minimum Lot Size: 4 ha

**PREVIOUS APPLICATIONS:**

**Application #33549-0**

**Applicant:** Henshaw, Harold  
**Decision Date:** November 21, 2000  
**Proposal:** John Henshaw proposes to subdivide his 19.1 ha lot into two lots roughly along the toe of a steep slope. This is close to the ALR boundary in this lot.  
**Decision:** Allow as requested.

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**Application #27394-0**

**Applicant:** Henshaw, Harold  
**Decision Date:** April 5, 1993  
**Proposal:** To subdivide the 19.1 ha lot into 2 parcels of approximately 5.2 and one lot of 8.7.  
**Decision:** Refused on the grounds of high agricultural capability and the impact of parcelization in agricultural areas.

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**Application #15958-0**

**Applicant:** Henshaw, G,H,G,D  
**Decision Date:** 03/16/1983  
**Proposal:** To subdivide the 112 ha parcel to create four 20 ha parcels within the ALR, and one remainder (non-ALR)  
**Decision:** Allowed.

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**RELEVANT APPLICATIONS:**

**Application #26721-0 (Adjacent)**

**Applicant:** HENSHAW, GEORGE & ELIZABETH

**Decision Date:** 07/16/92

**Proposal:** To subdivide the 19 ha lot into 2 parcels of 8.6 and 8.8 ha each and readjust southern boundary.

**Decision:** Refused on grounds of high agricultural capability.

**LOCAL GOVERNMENT RECOMMENDATIONS/COMMENTS:**

**South Pender Island Local Trust Committee (LTC):** To forward to the ALC without recommendation.

**Local Government Staff:** Recommended that the application be forwarded with support. Staff report stated that the proposed subdivision is consistent with the existing OCP regulations (4 ha minimum lot size). There is potential for fragmentation and a small loss of agricultural land, but overall the loss was felt to be minimal and the 3 proposed lots may continue to be farmed.

**STAFF COMMENTS:**

Staff recommend that the Commission consider the following:

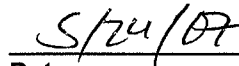
- There is a covenant on the NW corner of proposed lot 1, described as "fourthly" (see attached sketch). The covenant precludes building, constructing or placing any habitable buildings within this area of the property. There is also a covenant in the SW portion of the property which appears to be for a right of way. These covenants may restrict agriculture, which can be clarified with the applicant at the site visit.
- A site visit may help to determine the impact of the proposed subdivision on the agricultural capability of the property.

**ATTACHMENTS:**

- Sketch of Proposal
- ALC Map 92B.074 (1:10,000)
- ALC Map 92B/1 & 92B/14 (1:50,000)

**END OF REPORT**

  
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Signature

  
\_\_\_\_\_  
Date